

United States ✓
Circuit Court of Appeals
For the Ninth Circuit.

LEMUEL S. FOWLER and THOMAS SINGER,
Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA,
Defendant in Error.

Transcript of Record.

Upon Writs of Error to the United States District
Court of the Western District of Washington,
Northern Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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United States District Court, Western District of
Washington, Northern Division.

November Term, 1919.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES, ED-
WARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPANIER
and MRS. J. A. LEWIS,

Defendants.

Indictment.

The United States of America,
Western District of Washington,
Northern Division,—ss.

The grand jurors of the United States of America having selected, impaneled, sworn and charged to inquire within and for the Northern Division of the Western District of Washington, upon their oaths present:

COUNT I.

That on, to wit, the 30th day of March, 1918, and Continuously thereafter to the time of the presentment of this indictment, at Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, Lemuel S. Fowler, George E. White, Clarence H. Bellamy, Albert Bruce Paris, Thomas E. Jones, Edward Bourdell, Sarah Jones, Joe Veagus, Herbert William Hanson, Ethyl Hanson, Creed Lane, William Ratcliff, James Francis Mellison, Thomas Singer, David Jones, George H. Trepanier and Mrs. J. A. Lewis, have knowingly, wilfully, unlawfully, corruptly and feloniously combined, conspired, confederated and agreed [1*] together, and one with the other and together, and with divers other persons to the grand jurors unknown, all of the said defendants herein above named, and said other persons unknown, being hereinafter called the conspirators, to commit an offense

*Page-number appearing at foot of page of original certified Transcript of Record.

against the United States, that is to say, to violate Section 1 of the Act of Congress approved February 13th, 1913, entitled "An Act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same," it being then and there the plan, purpose and object of the said conspiracy, and of the said conspirators, that they, the said conspirators, should and would knowingly, wilfully, unlawfully and feloniously break the seals of said railroad cars containing interstate and foreign shipments of freight and express with the unlawful and felonious intent then and there on the part of the conspirators, and each of them, to commit larceny in said certain cars; it being then and there the further plan, purpose and object of the said conspiracy, and of the said conspirators, that they, the said conspirators, and each of them, should and would knowingly, wilfully and unlawfully enter certain railroad cars then and there containing interstate and foreign shipments of freight and express with the unlawful and felonious intent then and there on the part of the said conspirators, and each of them, to commit larceny in said cars; and it being then and there the further plan, purpose and object of the said conspiracy, and of the said conspirators, that they the

said conspirators should and would knowingly, wilfully, unlawfully and feloniously steal, take, carry away and conceal, and by fraud [2] and deception obtain from certain railroad cars, railroad station-houses, railroad platforms and railroad depots, with the unlawful and felonious intent then and there on the part of said conspirators, and each of them, to convert to the own use of said conspirators, and each of them, certain goods and chattels, of value then and there moving as interstate and foreign shipments of freight and express, and then and there being a part of and constituting interstate and foreign shipments of freight and express, all as the said conspirators then and there well knew and should and would well know at the time and in the execution of the said conspiracy and the object thereof; it being then and there the further purpose, plan and object of the said conspiracy and of the said conspirators that they the said conspirators, and each of them, would and should knowingly, wilfully, unlawfully and feloniously buy, receive, conceal and have in the possession of the said conspirators, and each of them, certain goods and chattels of value, which said goods and chattels prior to said buying, receiving, concealing and possessing by the said conspirators as aforesaid had been and would have been knowingly, wilfully, unlawfully, and feloniously stolen, taken, carried away and obtained by fraud and deception from certain railroad cars, railroad station-houses, railroad platforms, and railroad depots, with the intent then and there on the part of such person so stealing, taking, carrying away and obtaining said goods and

chattels to convert the said goods and chattels to his own use, and the said goods and chattels when so stolen, taken, carried away and obtained, being then and there moving as and part of and constituting certain interstate and foreign shipments of freight and express, that they the said conspirators, and each of them, then and there well knew and would and should well know at the times of buying, receiving and possessing said goods and chattels as aforesaid that the said goods and chattels had theretofore been stolen. [3]

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of said conspiracy, the said Thomas E. Jones, Creed Lane, Edward Bourdell and Clarence H. Bellamy, and each of them on the 25th day of January, 1920, did knowingly, wilfully, unlawfully and feloniously, in the Northern Division of the Western District of Washington, ride upon and accompany that certain railroad train from Ellensburg to the town of Auburn, containing as a part thereof a certain railroad car known as and bearing initials and number C. P. & St. L. 4188, then and there operated on the railroad route and transportation system of the Northern Pacific Railway Company under Federal control.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of said conspiracy, the said Thomas E. Jones and Creed Lane, on, to wit, the 31st day of July, 1919, did then and there ride upon and accompany from Ellensburg to the town of Auburn in the Northern Division of the Western District of Washington, that

said railroad train then and there including as a part thereof that certain railroad car known as and bearing initials and number N. P. 31800, upon and over the route and transportation system of Northern Pacific Railway Company then and there under Federal control.

That after the formation of said conspiracy, and in pursuance thereof, and in order to effect the object of said conspiracy, the said Thomas E. Jones, Edward Bourdell, Clarence H. Bellamy and Creed Lane did knowingly, willfully, unlawfully and feloniously ride upon and accompany from Auburn, in the Northern Division of the Western District of Washington, to Ellensburg, that certain train then and there including as a part thereof that certain car known as and bearing initials and number N. P. 96,333, then and there moving upon and along the route and transportation system of the Northern Pacific Railway Company, then and there under Federal control.

[4]

That after the formation of said conspiracy, and in pursuant thereof, and in order to effect the object thereof, the said Thomas E. Jones and Creed Lane on the 12th day of February, 1920, at Auburn, in the Northern Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully, and feloniously approach and examine that certain railroad car known as and bearing initials and number C. B. & Q. 38,573, which said car then and there was included and a part of a railway train being and about to be moved and operated over the railroad route and

transportation system of the Northern Pacific Railway Company, then and there under Federal control.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Creed Lane on the 6th day of February, 1920, at Auburn, in the Northern Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully and feloniously enter that certain railroad car known as and bearing initials N. P. 96,333, then and there being included in and a part of that certain train then and there being moved and operated on the railroad route and transportation system of the Northern Pacific Railway Company, then and there under Federal control.

That after the formation of said conspiracy, and in pursuance thereof, and in order to effect the object thereof, said Thomas E. Jones on the 12th day of February, 1920, did knowingly, wilfully, unlawfully and feloniously ride upon and accompany from Ellensburg to Auburn, in the Northern Division of the Western District of Washington, that certain train including as a part thereof that certain car known as and bearing initials and number M. C. 61,880, then and there being moved and operated upon the railroad route and transportation system of the Northern Pacific Railway Company, then and there under Federal control. [5]

That after the formation of said conspiracy, and in pursuance thereof, and in order to effect the object thereof, the said Thomas E. Jones and the

said Joe Veagus at East Auburn, in the Northern Division of the Western District of Washington, on the 24th day of February, 1920, did then and there knowingly, wilfully, unlawfully and feloniously talk and converse together.

That after the formation of said conspiracy, and in pursuance thereof, and in order to effect the object thereof, the said Creed Lane, on the 17th day of February, 1920, at Auburn, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, did then and there knowingly, willfully, unlawfully and feloniously possess and conceal certain articles, goods, wares and merchandise theretofore feloniously stolen from certain railroad cars while moving as and constituting parts of interstate and foreign shipments of freight and express, to wit, six overcoats, hosiery, one shotgun, shirts, shoes, cotton goods, cotton gloves, electric caps, phonographs, records, cigarettes and other articles, a more particular description thereof being to the grand jurors unknown.

That after the formation of said conspiracy, and in pursuance thereof, and in order to effect the object thereof the said George E. White, on the 25th day of February, 1920, at Auburn, in the Northern Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully and feloniously possess and conceal certain articles, goods, wares, and merchandise theretofore feloniously stolen from a railroad car moving in interstate commerce and being and constituting a part of an interstate shipment of freight, to

wit, one certain man's overcoat, shoes, neckties, padlocks, three bottles of Jergin's lotion, benzoin, men's shirts, razor strops and other goods and chattels, a more particular description whereof is to the grand jurors unknown. [6]

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Clarence H. Bellamy, on the 25th day of February, 1920, at Auburn, in the Northern Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully and feloniously possess and conceal certain goods, chattels, wares and merchandise theretofore feloniously stolen from a railroad car, railroad station-house, railroad platform and railroad depot, while moving as and constituting a part of an interstate shipment of freight and express, to wit, men's shoes, together with other articles, goods, merchandise, and chattels, a more particular description whereof is to the grand jurors unknown.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Albert Bruce Paris, on the 25th day of February, 1920, at Auburn, in Northern Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully and feloniously have possess and conceal certain chattels, goods, wares and merchandise theretofore feloniously stolen from certain railroad cars, railroad station-houses, railroad platforms and railroad depots, while moving as and constituting a part of cer-

tain shipments of freight and interstate commerce, to wit, certain men's shoes, Educator brand, together with other personal clothing, shirts and merchandise, a more particular description whereof is to the grand jurors unknown.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Thomas E. Jones, on the 25th day of February, 1920, at Auburn, in the Northern Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully, and feloniously possess and conceal certain goods, wares, merchandise and chattels theretofore feloniously stolen from certain railroad cars, railroad station-houses, railroad platforms and [7] railroad depots, while moving as and constituting a part of an interstate shipment of freight and express, to wit, canvas gloves, one hundred Mazda electric light bulbs, canned goods, whiskey bottles, bacon, grain in sacks and one sack of sugar, together with other goods, chattels, wares and merchandise, a more particular description whereof is to the grand jurors unknown.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Edward Bourdell, on the 25th day of February, 1920, at Auburn, in the Northern Division of the Western District of Washington, did then and there knowingly, wilfully and unlawfully and feloniously have, possess and conceal certain goods, chattels, wares and merchandise theretofore feloniously stolen from certain railroad cars, railroad station-houses, railroad

platforms and railroad depots, while moving as and constituting a part of an interstate shipment of freight and express, to wit, certain razor strops, together with other goods, wares, merchandise and chattels, a more particular description whereof is to the grand jurors unknown.

That after the formation of said conspiracy, and in pursuance thereof, and in order to effect the object thereof, the said Sarah Jones, on the 25th day of February, 1920, at Auburn, within the Northern Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully and feloniously have, possess, and conceal certain goods, wares, merchandise and chattels, theretofore feloniously stolen from certain railroad cars, railroad station-houses, railroad platforms and railroad depots, while moving as and constituting a part of interstate shipments of freight and express, to wit, certain shoes and dress goods, together with other goods, wares, merchandise and chattels, a more particular description whereof is to the grand jurors unknown.

That after the formation of said conspiracy and *and* in pursuance thereof, and in order to effect the object thereof, the said Mrs. J. A. Lewis (whose true Christian name is to the grand jurors unknown), on the 29th day of March, 1920, at the St. Elmo Hotel, [8] at the city of Auburn, in the Northern Division of the Western District of Washington, at two o'clock A. M. arose and came down to the front door in her wrapper to answer an inquiry made of her then and there by one Will-

iam Ratcliff, when and where and under these circumstances the following conversation took place between the said Mrs. J. A. Lewis and the said William Ratcliffe; William Ratcliff said, "Mrs. Lewis, where is Fowler? Why didn't he meet us as agreed?" Mrs. Lewis replied, "He is up at Cemetery Hill getting those auto tires, and should be back any time." Mrs. Lewis then asked William Ratcliff, "Do you know the man you are dealing with over these tires?" Ratcliff replied, "I know him and know that he is all right." Mrs. Lewis said, "How do you know he is all right?" Ratcliff replied, "He was sent in to me by a friend who told me this man was O. K."

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Mrs. J. A. Lewis (whose true Christian name is to the grand jurors unknown) on the 30th day of March, 1920, at the residence of Mrs. Maud Ratcliff, 111 South Maude Street, at the city of Auburn, in the Northern Division of the Western District of Washington, spoke concerning the trouble the boys were in over the auto tires and mentioned Lemuel S. Fowler, William Ratcliff and Herbert William Hansen and their trouble over the auto tires and the cases of shoes, and then said: "Had I looked out my front door when Mr. Ratcliff came to my hotel at two o'clock Sunday morning and asked for Fowler, and why he had not met them, and when I said that he had gone for the auto tires, had I seen the man that was in the automobile I could have told then and

there that the man was dangerous and that it was foolish for them to have any business transactions with him in any manner.”

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Mrs. J. A. Lewis (whose true Christian name is to the grand jurors unknown), on the 2d day of April, 1920, at the St. Elmo Hotel, in the city of Auburn, in the Northern Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully and feloniously possess and conceal six (6) steak knives theretofore stolen and known to so have been stolen by the said Mrs. J. A. Lewis from a shipment contained in G. N. freight-car 211,470, consigned to Wells Butcher Supply Co., Seattle, State of Washington, from Russell Cutlery Co., Turner Falls, State of Massachusetts. [9]

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Thomas E. Jones, and Edward Bourdell, being then and there members of the train crew handling and hauling freight-car G. N. 211,470 in train Extra West, arriving at Auburn, in the Northern Division of the Western District of Washington, on March 26, 1920, did then and there knowingly, wilfully, unlawfully and feloniously possess and conceal certain articles, goods, wares and merchandise theretofore feloniously stolen from that certain last above mentioned freight railroad car while moving as and constituting part of interstate shipments of freight and ex-

press, to wit, one suit, man's gray and brown mixed, constituting part of a shipment moving in interstate commerce from Baltimore, Maryland, to Seattle, Washington, and consigned to Lundquist-Lilly Co.; also divers and sundry cutlery theretofore stolen and known so to have been by said defendants Thomas E. Jones and Edward Bourdell and George H. Trepanier from a shipment contained in the aforesaid G. N. freight-car 211,470, consigned to Wells, Butcher Supply Co., Seattle, Washington, from Russell Cutlery Co., Turner Falls, Mass.; also four new adjustable auto wrenches theretofore stolen as aforesaid from said interstate shipment; also one new four-pane window-sash, boxed, from and out of said interstate shipment contained in said car; also one brown mixed goods Mackinaw; also various and sundry men's caps, hats, grain sacks and other haberdashery, merchandise and groceries so stolen as aforesaid from and out of said shipments; also boots and shoes theretofore stolen from said interstate shipments moving in interstate commerce on and upon said railroad; all of which said divers and sundry goods and wares and merchandise were each and severally found in the caboose [10] 1850 attached to said interstate trains, G. N. 211,470, then and there in charge of Conductor Thomas E. Jones, and Brakeman Edward Bourdell.

That after the formation of said conspiracy and in pursuance thereof and in order to effect the object thereof, the said Thomas Singer on the 26th day of March, 1920, at Seattle, in the Northern

Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully and feloniously receive, possess and conceal two suits of men's clothing from the defendant Edward Bourdell, theretofore feloniously stolen from a certain railroad car while moving as and constituting part of interstate and foreign shipments of freight and express, to wit, G. N. freight-car 211,470, carrying one case men's suits consigned to Lundquist-Lilly Co., Seattle, Washington, from L. Greiff & Bros., Baltimore, Maryland.

That after the formation of said conspiracy and in pursuance thereof and in order to effect the object thereof, the said Thomas Singer did on the 29th day of February, 1920, at Seattle, Washington, knowingly, wilfully, unlawfully and feloniously received and possess one man's overcoat from defendant Edward Bourdell, he the said Thomas Singer well knowing that the same had theretofore been stolen from goods moving in interstate commerce shipments, to wit, from and out of C. P. & St. L. freight-car 4188, containing a shipment of men's overcoats consigned from Hart, Schaffner & Marx to M. Prager & Co., Seattle, Washington.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object [11] thereof, the said Edward Bourdell did knowingly, wilfully, unlawfully and feloniously on March 1, 1920, go to, visit and see the said defendant Thomas Singer at his place of business at 304 Denny Building, Seattle, Washington.

That after the formation of said conspiracy, and

in pursuance thereof, and in order to effect the object thereof, the said Thomas Singer did on the first day of March, 1920, knowingly, wilfully, unlawfully and feloniously offer to buy and negotiate for certain goods, wares and merchandise from the said defendant Edward Bourdell, knowing the same to have lately theretofore been stolen from interstate commerce shipments.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Clarence H. Bellamy, Thomas E. Jones, Herbert William Hanson, Elmuel S. Fowler and Edward Bourdell did on the 16th day of April, 1920, at Auburn, in the Northern Division of the Western District of Washington, then and there knowingly, wilfully, unlawfully and feloniously meet and confer together in a certain room in the Lloyd Hotel.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, the said Herbert William Hanson, William Ratcliff, and David Jones did knowingly, wilfully, unlawfully and feloniously on February 28, 1920, enter railroad freight-car P. F. E. 12,320, then and there moving in interstate commerce for the Northern Pacific Railway Company, in said Northern Division of the Western District of Washington, containing a shipment of interstate commerce of shoes consigned by Peters Shoe Co., St. Louis, Mo., to J. H. Taylor, Seattle, Washington, and knowingly, wilfully, unlawfully and feloniously remove from said car four cases of said

shoes, the whole of said shipment and destroy the way-bill under which the said shipment was moving, and hide and conceal said [12] shoes at a point at Mile Post 91, in King County, Washington, and about one hundred yards from the railroad right of way.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, Herbert William Hanson, William Ratcliff and David Jones on the 2d day of March, 1920, wilfully, knowingly, unlawfully and feloniously entered that certain railway freight-car, Penn car 43,493, and stole, took and carried away therefrom three rolls of grass matting, theretofore shipped from China in foreign commerce to St. Paul, Minnesota, over the Northern Pacific Railway.

That after the formatioin of said conspiracy and in pursuance thereof, and in order to effect the object thereof, William Ratcliff, did knowingly, wilfully, unlawfully and feloniously on the 4th day of March, 1920, possess and conceal in his house at Auburn, in the Northern Division of the Western District of Washington, two rolls grass matting, well knowing that the same had been theretofore feloniously stolen from a railroad car moving in foreign commerce.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, Herbert William Hanson, did knowingly, wilfully, unlawfully and feloniously on the 4th day of March, 1920, possess and conceal in his

house at Auburn, in the Northern Division of the Western District of Washington, one roll grass matting, well knowing that the same had been theretofore feloniously stolen from a railroad car moving in foreign commerce.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, William Ratcliff did then and there knowingly, wilfully, unlawfully and feloniously on the 14th day of September, 1919, possess and conceal a certain sack of sugar, to wit, fifty pounds of sugar, theretofore feloniously stolen from an interstate shipment of sugar travelling in interstate from San Francisco, California, [13] consigned to Powell-Sanders Co., Spokane, Washington, in Northern Pacific car 23,247, which said sugar said defendant William Ratcliff hauled in Northern Pacific R. R. train on September 14, 1919.

That after the formation of said conspiracy and in pursuance thereof and in order to effect the object thereof, Lemuel S. Fowler, William Ratcliff and James Francis Mellison, on the 28th day of March, 1920, at Renton, in King County, in the Northern Division of the Western District of Washington, did then and there knowingly, wilfully, unlawfully and feloniously offer to sell and dispose and negotiate for the sale and disposition of certain stolen property, to wit, certain automobile tires, lately stolen from Northern Pacific freight-car 101,059 while moving over the Northern Pacific Railroad from the city of Seattle, Washington, to the city of Portland, State of Oregon.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of said conspiracy, the said Ethyl Hanson and Herbert William Hanson, and each of them, on the 28th day of March, 1920, at Auburn, in the Northern Division of the Western District of Washington, did then and there unlawfully, knowingly, wilfully and feloniously possess and conceal certain articles, goods, wares and merchandise theretofore feloniously stolen from a railroad car moving in interstate commerce and being and constituting a part of an interstate shipment of freight, to wit, certain automobile tires, a more particular description whereof is to the grand jurors unknown.

That after the formation of said conspiracy and in pursuance thereof and in order to effect the object of the same while said conspiracy remained in effect, at the city of Auburn, in King County, in the Northern Division of the Western District of Washington, and on March 28, 1920, the said Ethyl Hanson, Herbert William Hanson, William Ratcliff, Lemuel S. Fowler and James Francis Mel-lison; and each of them, did knowingly, wilfully, unlawfully and feloniously assemble together and in automobiles [14] proceed in a westerly direction to a point beyond what is known and called "Cemetery Hill," where they, and each and all of them, uncovered, discovered and removed a cache of goods, wares, and merchandise, to wit, automobile tires, theretofore stolen, removed, secreted, and hidden from the railway freight-cars in which they

were moving in interstate commerce, and placed said tires in said automobiles and transported them in said automobiles to a point east of Covington, Washington, where said defendants, and each of them, further uncovered, found and discovered certain goods, wares and merchandise, to wit, shoes previously stolen while being transported in interstate commerce, and then and there the said last above-named defendants, and each of them, proceeded to transport in said automobiles the afore-said stolen goods and property to the city of Auburn, Washington.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of the same, while said conspiracy was still in existence and effect, and on the 28th day of March, 1920, in King County, in the Northern Division of the Western District of Washington, the said Lemuel S. Fowler, William Ratcliff and James Francis Mellison, and each of them, did wilfully, knowingly, unlawfully and feloniously assemble together in the city of Renton, King County, at Edwards' garage.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of the same, while said conspiracy remained in effect, and on the 28th day of March, 1920, at Renton, in the Northern Division of the Western District of Washington, the said Lemuel S. Fowler, William Ratcliff and James Francis Mellison, and each of them, did knowingly, wilfully, unlawfully and feloniously negotiate for the sale of various

and sundry articles, to wit, said automobile tires and shoes to one E. Hughes. [15]

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, while the same was still in existence and effect, at Renton, in the Northern Division of the Western District of Washington, on March 28, 1920, the said Lemuel S. Fowler, William Ratcliff and James Francis Mellison, and each of them, did knowingly, wilfully, unlawfully and feloniously, agree to sell said goods, wares and merchandise theretofore feloniously stolen from interstate shipments, to wit, said automobile tires and said shoes, a more particular description of which is to the grand jurors unknown, to one E. Hughes, for the sum and price of fifteen dollars (\$15) for each of said automobile tires and three dollars (\$3) per pair for each and all of said pairs of shoes.

That after the formation of said conspiracy and in pursuance thereof and in order to effect the object thereof, and while said conspiracy was still in effect, at Edwards' Garage, in the city of Renton, King County, in the Northern Division of the Western District of Washington, on March 28, 1920, the said Lemuel S. Fowler did knowingly, wilfully, unlawfully, and feloniously attempt to pull an automatic 38-calibre revolver and shoot Deputy Sheriff S. Campbell.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, while said conspiracy was still in effect, the said William Ratcliff, James Francis

Mellison and Lemuel S. Fowler, and each of them, knowingly, wilfully, unlawfully and feloniously, unloaded and discharged from said automobiles in which they transported said automobile tires and cases of shoes, on the 28th day of March, 1920, at Edwards' Garage, in the city of Renton, King County, in the Northern Division of the Western District of Washington. [16]

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object thereof, while said conspiracy was still in effect, the said William Ratcliff, James Francis Mellison and Samuel Fowler, and each of them, knowingly, wilfully, unlawfully and feloniously, on the 28th day of March, 1920, assembled together in Edwards' Garage, in the city of Renton, in the Northern Division of the Western District of Washington, and then and there were armed with deadly weapons, each of them carrying a pistol.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of the same, while said conspiracy was still in effect, the said Lemuel S. Fowler at Auburn, in the Northern Division of the Western District of Washington, on March 25, 1920, knowingly, wilfully, unlawfully and feloniously, stated to one John Doe as follows: "Why do you want to know where Conductor Scott lives?" to which John Doe replied, "I heard he had some auto tires to sell." Whereupon Fowler replied, "I am the fellow."

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the

object of said conspiracy, Herbert W. Hanson did then and there wilfully, unlawfully and feloniously, on March 23, 1920, offer to sell and deliver to one John Doe Welch certain articles, goods, wares and merchandise, theretofore feloniously stolen from a railroad car moving in interstate commerce and being and constituting an interstate shipment of freight, to wit, certain automobile tires and cigarettes, and other goods and chattels, a more particular description thereof being to the grand jurors unknown.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of said [17] conspiracy, the said Lemuel S. Fowler, on the 23d day of March, 1920, at the city of Auburn and vicinity, in the Northern Division of the Western District of Washington, did then and there wilfully, unlawfully and feloniously offer to sell and deliver certain articles, goods, wares and merchandise, theretofore feloniously stolen from a railroad car moving in interstate commerce and being and constituting a part of interstate shipment, to wit, certain automobile tires for the price of ten dollars (\$10) each, and certain cigarettes for the price of thirty-five dollars (\$35) per carton containing one thousand cigarettes in each carton, and other goods and chattels, a more particular description of which is to the grand jurors unknown.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of said conspiracy, the said James Francis

Mellison, on the 23d day of March, 1920, at the city of Auburn and vicinity, in the Northern Division of the Western District of Washington, did then and there wilfully, unlawfully, knowingly and feloniously offer to sell and deliver certain articles, goods, wares and merchandise theretofore feloniously stolen from a railroad car moving in interstate commerce and being and constituting a part of interstate shipment, to wit, pig tin to a certain John Doe Welch.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of said conspiracy, the said James Francis Mellison, on the 29th day of March, 1920, at the city of Seattle, in the Northern Division of the Western District of Washington, did then and there wilfully, unlawfully and feloniously offer to sell and deliver to Stewart Campbell in consideration of the said Stewart Campbell then and there releasing the said James Francis Mellison from arrest, certain articles, goods, wares and merchandise, theretofore feloniously stolen from a railroad [18] car moving in interstate commerce and being and constituting a part of interstate shipment, to wit, pig tin, a more particular description of which is to the grand jurors unknown.

That after the formation of said conspiracy and in pursuance thereof, and in order to effect the object of the same, the said Joe Veagus, on the 24th day of January, 1920, walked to and approached the caboose attached to the freight train just brought in under the supervision of Conductor Thomas E. Jones, and said to Thomas E. Jones,

“Did you bring any more of that stuff down this morning?” To which Thomas E. Jones replied, “No; look out, the bulls are coming,”—contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

COUNT II.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That on, to wit, the 30th day of March, 1918, and continuously thereafter to the time of the presentment of this indictment, at Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court Lemuel S. Fowler, George E. White, Clarence H. Bellamy, Albert Bruce Paris, Thomas E. Jones, Edward Bourdell, Sarah Jones, Joe Veagus, Herbert William Hanson, Ethyl Hanson, William Ratchiff, James Francis Mellison, Thomas Singer, David Jones and Creed Lane, George H. Trepanier and Mrs. J. A. Lewis, have unlawfully, corruptly and feloniously combined, conspired, confederated and agreed together, and one with the other, and together and with divers other persons to the grand jurors unknown, all of the said defendants hereinabove named and said other persons unknown being hereinafter called the conspirators, to commit an offense against the United States, to wit, to violate section 35 of the Penal Code of the United States, as amended by the Act of Congress approved October 23, 1918, it being then and there the plan, purpose and object [19] *it being then and there the*

plan, purpose and object of the said conspiracy and of the said conspirators that they, the said conspirators, and each of them, should and would knowingly, wilfully, unlawfully and feloniously take, steal and carry away for their own use of the said conspirators, and each of them, and for the own use of the said conspirators, and each of them, and for the use of other persons to the grand jurors unknown, with the unlawful and felonious intent then and there on the part of said conspirators, and each of them, to steal and purloin certain personal property of value of the United States; it being then and there the further plan, purpose and object of the said conspiracy and of the said conspirators, and each of them, that they, the said conspirators, and each of them, would and should take, steal and carry away the said goods, wares, merchandise and chattels as aforesaid, and with felonious intent as aforesaid, from certain railroad cars, railroad station-houses, railroad platforms, railroad depots and railroad yards and premises then and there in and under federal possession and control.

That after the formation of said conspiracy, and in pursuance thereof and in order to effect the object thereof, the said several defendants, at and on the several places and dates in Count I of this indictment more particularly mentioned and set forth, did then and there knowingly, wilfully, unlawfully and feloniously do and commit each and all of those certain acts referred to and set forth and charged as having been committed by said defendants in

Count I of this indictment at and on line 9, page 4, to and including line 4, page 17, of this indictment, to which reference is hereby made, the same incorporated in this count as if more fully set forth herein; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America. [20]

COUNT III.

And the grand jurors aforesaid, upon their oaths, aforesaid, do further present:

That on, to wit, the 30th day of March, 1918, and continuously thereafter to the time of the presentment of this indictment, at Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, Lemuel S. Fowler, George E. White, Clarence H. Bellamy, Albert Bruce Paris, Thomas E. Jones, Edward Bourdell, Sarah Jones, Joe Veagus, Herbert William Hanson, Ethyl Hanson, William Ratcliff, James Francis Mellison, Thomas Singer, David Jones and Creed Lane, Geo. H. Trapanier and Mrs. J. A. Lewis, have knowingly, wilfully, unlawfully, corruptly and feloniously combined, conspired, confederated and agreed together, and one with the other, and together and with divers other persons to the grand jurors unknown, all of the said defendants herein above named, and said other persons unknown being hereinafter called the conspirators, to defraud the United States in the manner and by the means following, to wit, that they the said conspirators, and each of them should and would knowingly, wilfully, unlawfully and feloni-

ously take, steal, carry away, purloin, embezzle and convert to their own use certain goods, wares, merchandise, chattels and property then and there moving as and constituting a part of certain shipments of freight and express on and over certain railroad routes and systems of transportation *then there* under federal control, the said goods, wares, merchandise, chattels and property then and there being in the possession of the United States as a common carrier of goods for hire; and also certain tolls, equipment and property then and there used in the maintenance and operation of certain railroad routes and transportation systems then and there under federal [21] control.

That after the formation of said conspiracy and in pursuance thereof and in order to effect the object thereof, the said several defendants, at and on the several places and dates in Count I of this indictment more particularly mentioned and set forth, did then and there knowingly, wilfully, unlawfully and feloniously do and commit each and all of those certain acts referred to and set forth and charged as having been committed by said defendants in Count I of this indictment, at and on line 9, page 4, to and including line 4, page 17, of this indictment, to which reference is hereby made, and same incorporated in this count as if more fully set forth herein; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

ROBT. C. SAUNDERS,
United States Attorney.

[Endorsed]: Indictment for Vio. Sec. 37, C. C., to Vio. Act of Feb. 13, 1913. A True Bill. E. Shorrocks, Foreman Grand Jury. Presented to the Court by the Foreman of the Grand Jury in Open Court, in the Presence of the Grand Jury, and Filed in the U. S. District Court, April 28, 1920. F. M. Harshberger, Clerk. [22]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
SARAH JONES, WILLIAM HANSON,
ETHYL HANSON, JAMES FRANCIS
MELLISON, DAVID JONES, GEO. H.
TREPANIER and J. A. LEWIS.

Defendants.

Arraignment and Plea.

Now, on this 17th day of May, 1920, into open court come the said defendants, Lemuel S. Fowler, George E. White, Sarah Jones, William Hanson, James Francis Mellison, David Jones, Geo. H. Trepanier and J. A. Lewis, for arraignment, accompanied by their attorneys, John F. Dore and E. H. Chavelle, and all answer that their true names are as above. Whereupon the reading of the indict-

ment is waived and they here and now enter their plea of not guilty.

Journal 2, page 284. [23]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLARENCE H. BELLAMY, THOMAS SINGER,
and WILLIAM RATCLIFF,

Defendants.

Arraignment and Plea.

Now, on this 17th day of May, 1920, into open court come the said Defendants Clarence H. Bellamy, Thomas Singer and William Ratcliff, for arraignment, with defendant Bellamy accompanied by his attorney, Carroll B. Graves, Singer accompanied by his attorney Tucker, and Ratcliff accompanied by his attorney H. Morris, and all answer that their true names are as above. Whereupon the reading of the charges are waived and they here and now enter their plea of not guilty to the charges as objected against them in the charges filed here.

Journal 2, page 284. [24]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES, ED-
WARD BOURDELL, SARAH JONES,
JOE VEACUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPA-
NIER and MRS. J. A. LEWIS,

Defendants.

Demurrer.

COME NOW the defendants, Lemuel S. Fowler, George E. White, James Francis Mellison, George H. Trepanier and Mrs. J. A. Lewis, and each of them, and appearing by their attorney, John F. Dore, demur to Count 1, Count 2 and Count 3, each of said counts separately, upon the following grounds:

I.

That the same do not state facts sufficient to constitute a cause of action.

II.

That said indictment does not conform to the statutes of the United States.

III.

That said indictment does not inform the defendants definitely and without ambiguity, and does not furnish sufficient facts, or any facts at all, to enable defendants to prepare their defense.

JOHN F. DORE,

Attorney for Lemuel S. Fowler, George E. White,
James Francis Mellison, George H. Trepanier
and Mrs. J. A. Lewis. [25]

Acceptance of service of within Demurrer acknowledged this 5th day of May, 1920.

ROBERT C. SAUNDERS,

Attorney for Plaintiff (E. D. Dutton).

[Endorsed]: Demurrer. Filed in the United States District Court, Western District of Washington, Northern Division. May 5, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [26]

United States of America, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER,

Defendant.

Demurrer to Indictment Overruled.

Now, on this 17th day of May, 1920, this cause comes on for hearing on demurrer to indictment by defendants H. W. Hanson, Ethyl Hanson and David Jones, Lemuel S. Fowler et al., whereupon the demurrer is argued by respective counsel, and is overruled by the Court and exceptions allowed. Same ruling is made to demurrer of Edw. H. Chavelle and exceptions allowed.

Journal 2, page 285. [27]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER et al.,

Defendants.

Trial.

Now, on this 25th day of May, 1920, this cause comes on for trial with all defendants present in their own proper persons, defendant Joe Vargus appearing in custody of the United States marshal. All parties hereto announce they are ready to proceed to trial, whereupon the following jurors are examined and excused for cause: Howard A. Quinn, E. C. Lowry, W. J. Stenfoot, Albert P. Robinson,

Elden W. Pollock, Alfred E. Scheider, H. B. Pederson, D. W. Jenkins and Nels F. Selender. The following named jurors are examined and passed by both sides and then challenged by the Government, to wit: Neil Gillis, Geo. S. Shelton, Walter Cooper, V. L. Elson, Fred A. Reid, John Sponek and Saml. J. Gendron. The following jurors are passed by both sides and then challenged by defendant, to wit: Henry A. Schaub, James Hertzog, F. O. Ehrlick, Ruel A. Russell, Le Roy De Long, James B. Barton, C. E. Briggs, Armin G. Schroeder, Jacob F. Ranning, Willard O. Palmer and D. B. Spellman. Whereupon the following jurors are, after examination, passed and sworn as jurors in this cause, to wit, E. Egbert Rhodes, Mary Johnson, H. A. Eckas, Martin Tjerne, Ed. McGraf, Saml. H. Poynor, Hugh Dugan, Frank Lotzgesell, Warren L. Sisler, Carl Smedberg, O. Sellgren and Jos. Patrick. Before the trial jury was completed, the names of jurors in the jury-box serving as petit jurors being exhausted, the clerk was ordered to draw from the jury-box the names of 6 persons, residents of Seattle, whereupon the clerk drew the following names: Willard O. Palmer, Thos. W. Scott, Wm. S. Rott, Harold H. Stewart, D. W. Jenkins, and Geo. E. M. Pratt. Venire was issued and marshal return the names of Willard O. Palmer and D. W. Jenkins. Whereupon the jury still being incomplete, it is stipulated in open court that an open venire is to be issued for five persons, returnable forthwith, [28] and Government and defendants

each to have privileges of one additional peremptory challenge. The marshal returns names of D. B. Spellman, Nels F. Selender, Saml. J. Gendorn, H. A. Eckas and Ed. McGraf, whereupon the Government's counsel makes opening statement, and whereupon defendant Wm. Ratcliff at this time withdraws former plea heretofore entered and enters his plea of guilty to charges as objected against him in the indictment herein filed. Whereupon on motion of defendants' counsel, John F. Dore, all witnesses for both sides are excluded from the courtroom during the trial of this cause except one special agent for the Government. Wm. Ratcliff was examined and sworn as witness for Government and Exhibits 1, 2, 3, 4, 5, 6 and 7 were introduced. The hour of adjournment having arrived, the Court admonished the jury and the cause was continued until 10:00 A. M. to-morrow. Witness Ratcliff was on the stand when adjournment was taken.

EDWARD E. CUSHMAN,
Judge.

Journal 2, page 301. [29]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,
vs.
LEMUEL S. FOWLER et al.,
Defendants.

Trial (Continued).

Now, on this 26th day of May, 1920, this cause comes on for trial with all parties present, likewise the jury. The roll-call was waived and the trial resumed. Wm. Ratcliff resumes the stand. The following witnesses for the Government were examined and sworn: Roger Ayers, E. J. Hughes, Stewart Campbell, M. L. Lovall, Geo. M. Payne, John Linquist, J. C. Connor, Irving Brown and Alfred Kessler. Recess was announced and at 1:30 P. M. court was again in session. The jury was all present and the roll-call was waived. And now the hour of adjournment having arrived and by consent of counsel, and the jury having been cautioned, it is ordered that this cause be adjourned until May 27, 1920, at 10:00 A. M.

Whereupon court stands adjourned until May 27, 1920, at 10:00 A. M.

EDWARD E. CUSHMAN,
Judge.

Journal 2, page 304. [30]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL FOWLER et al.,
Defendants.

Trial (Continued).

Now on this 27th day of May, 1920, the trial is resumed, *will* all parties present, likewise the jury. The roll-call is waived. Government witness Kessler resumes the stand and the following witnesses for the Government are examined and sworn: Mrs. Ratcliff, J. M. Clark, Mrs. E. B. Penny, I. B. Armstrong, E. R. Toby, David Doyle, Jake Olson, Sam Bell, Winquist, Payne and Toby are recalled, Mr. Faylor, J. E. Barkwell, M. Proger, Mr. Amon, Alberg Jost, John Rust, L. W. Prager, V. B. Bundy, Charles Clark, S. P. Connell, G. R. McLaughlin, Richard Lund, L. G. Gray, W. K. Crowther, E. R. Wiggins, F. W. Parsons, James J. McManus, F. C. Hofsetter, H. F. Fritzinger, C. C. Moore, Leo Parks and C. J. Callahan and 81 exhibits were introduced. And now the hour of adjournment having arrived and by consent of counsel and the jury having been cautioned, it is ordered that this cause be adjourned until Friday May 28, 1920, at 10:00 A. M.

Whereupon court stands adjourned until May 28, 1920, at 10:00 A. M.

EDWARD E. CUSHMAN,
Judge.

United States District Court of the Western
District of Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL FOWLER et al.,

Defendants.

Trial (Continued).

Now on this 28th day of May, 1920, this cause comes on for trial, and all parties are present, likewise the jury. The roll-call is waived. The following witnesses for the Government were examined, and sworn: J. Hardin, Martin Mehan, C. Clark recalled T. J. Cummings, August Krieger, J. H. Taylor, T. H. Gerkenmeyer, J. S. Hindman, Ernest Gerkenmeyer, J. L. Roberts, J. D. McCormick, Wm. A. Fitzpatrick, Harry Richardson, A. C. Dow, Morris Murphy, E. J. Ferrell, P. J. Knudson, M. Moehring, L. Gotzka, be recalled; A. L. Coontz, N. Warshal, C. J. Bush, J. R. Young, Roy Ayres and C. W. Scott recalled; John L. Marks, R. C. Fritz, R. A. Hatten, G. F. Spaukenberg, Young was recalled; W. C. Brock, Carl Kelly, Lovell was recalled; Roy Tibbits, M. E. Blair, S. J. Quinn, Al. Spong, Alex Mackintosh, J. W. Humphrey and Joe Leonard, and Bush, Young, and Crowther were recalled and 45 exhibits were introduced. And now the hour of adjournment having

arrived and by consent of counsel and the jury having been cautioned, it is ordered that this cause be adjourned until May 29, 1920. 10:00 A. M.

Whereupon court stands adjourned until May 29, 1920, 10:00 A. M.

EDWARD E. CUSHMAN,
Judge.

Journal 2, page 306. [32]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL FOWLER et al.,
Defendants.

Trial (Continued).

Now, on this 29th day of May, 1920, this cause comes on for trial, with all parties present, likewise the jury. The roll-call is waived and the trial is resumed. The following Government's witnesses were recalled; P. J. Knudson, Toby Brown, Lovall and Winquist at which time the Government rests. A motion was made by counsel for defendant Joseph Vargus for a directed verdict. As this was not opposed by the Government same was granted and the defendant discharged from further custody. Motion and argument for a directed verdict, etc., to

be taken up Tuesday. And now the hour of adjournment having arrived and by consent of counsel and the jury having been cautioned, it is ordered that this cause be adjourned until Monday, May 31, 1920, 10:00 A. M.

Whereupon the court stands adjourned until May 31, 1920, 10:00 A. M.

EDWARD E. CUSHMAN,
Judge.

Journal 2, page 306. [33]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,
vs.
LEMUEL FOWLER et al.,
Defendants.

Trial (Continued).

Now on this 1st day of June, 1920, this cause comes on for trial. All parties being present, likewise the jury, the trial was resumed. A motion was made by Government's counsel that witnesses Cummings and Winquist be recalled and further testify, whereupon the Government again rests, and whereupon the jury is, for the purpose of the court hearing certain motions of the several defendants, excused to the hour of 2 P. M. All defendants join

but understand that motion is separately made that Government be compelled to elect which group of conspirators plaintiff will rely upon. This motion was denied and exceptions allowed. The counsel for C. H. Bellamy moves for a directed verdict. This motion was denied and exception allowed. The counsel for A. B. Paris moves for a directed verdict. This motion was granted. The counsel for Sarah Jones moves for a directed verdict which was denied and exceptions allowed. Counsel for Ethel Hanson moves for a directed verdict. Same was denied at this time. Counsel for David Jones moves for a directed verdict which was also denied and exception allowed. Counsel for defendant Louis Trepanier moves for a directed verdict. This motion is granted. Counsel for defendants Mrs. J. A. Lewis, Geo. E. White and Millison and Lemuel Fowler moves for a directed verdict which was denied and exception allowed. Counsel for defendant Singer moves for a directed verdict which is denied and exception allowed. The counsel for defendant Lane moves to strike all evidence relating to certain exhibits. [34] This motion was denied and exception allowed. At 2 P. M. the trial was resumed. The jury was all present and the roll-call was waived. The opening statement was made by Counsel Bostwick & Steel for defendant Mrs. Sarah Jones. The following witnesses were examined and sworn for defendant: Sarah Jones; Mrs. Sarah Jones, T. Jones, Emma K. Jones, S. Cavanaugh, W. R. Wiley, Mrs. A. Moss, John X. Mills, at which time defendant Sarah Jones rests. Open-

ing statement was made by counsel for defendant David Jones, Herbert William and Ethyl Hanson and the following witnesses were examined and sworn for Defendants Jones and Hanson; David Jones, James Losby, Henry Goldman and R. A. Hutchinson. And now the hour of adjournment having arrived and by consent of the counsel and the jury having been cautioned, it is ordered that this cause be adjourned until June 2, 1920, at 10 A. M.

Whereupon court stands adjourned until June 2, 1920, at 10 A. M.

EDWARD E. CUSHMAN,
Judge.

Journal 2, page 313. [35]

United States of America, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,
vs.
LEMUEL FOWLER et al,
Defendants.

Trial (Continued).

Now on this 2d day of June, 1920, this cause comes on for trial. All parties are present, likewise the jury. The roll-call is waived and the trial is resumed. The following witnesses for the defendants

were examined and sworn: Stanley W. Brown, J. R. Wallace, Herbert Wm. Hanson, S. M. Griffin, Henry Lang, J. M. Windley, Geo. W. Colby, E. H. Farler, Wm. S. Dipps, Saml. L. Ackerman and Ethyl Hanson, and D. Jones, W. R. Wiley and S. Cavanaugh recalled, at which time defendants David Jones, Herbert and Ethyl Hanson rest. A recess was announced from 12 noon to 1:30 P. M. At 1:30 P. M. the jury returned and all present and roll-call waived, the trial is resumed. The opening statement for defendant Thomas Singer was made by Wilmon Tucker. Witnesses Thomas S. Singer and Edith Hill witnesses for defendant Singer, were temporarily withdrawn to finish testimony later. Singer is recalled and further testifies. Witness Singer again was withdrawn and counsel for S. E. Jones, Lane & Bourdell was allowed to call character witnesses as follows, to wit: Irving B. Nickerbocker, Walter W. Downing, James B. McGilvrey, Geo. Krouse, B. F. Hoye, W. J. Baine and James M. Reilley and Wm. S. Dippo. And now it is ordered that this cause be adjourned until 10:00 A. M. to-morrow.

Journal 2, page 315.

EDWARD E. CUSHMAN,

Judge. [36]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL FOWLER et al.,

Defendants.

Trial (Continued).

Now, on this 3d day of June, 1920, this cause comes on for trial. All parties are present, likewise the jury. The roll-call is waived and the trial is resumed. Edward Bourdell at this time withdraws his former plea of not guilty heretofore entered and enters a plea of guilty to Counts I, II, and III of the indictment filed herein. The Government moves that the sentence be passed for the present and same is granted. The following witnesses for defendant Singer are examined and sworn: E. M. Bird, Adolph Behrends, Alexander Malamud, Geo. C. Ricord and Hazel Downing and Thos. Singer is recalled, at which time defendant Singer rests. The following witnesses for defendants Thos. E. Jones and Creed Lane are examined and sworn: H. C. McIntyre, James Harry Price, Creed Lane, Mrs. Creed Lane, Wm. O. Adams, Mrs. T. E. Jones, Thos. E. Jones and W. W. Goodson and J. R. Wallace and S. M. Griffn are recalled. Defendants T. E. Jones and Creed Lane rest. The opening statement is made by counsel for defendants

Fowler, White, Mellison and Lewis, and witnesses Mrs. Sarah Lewis and J. W. Brown are examined and sworn. And now the hour of adjournment having arrived and by consent of counsel and the jury having been cautioned, it is ordered that this cause be adjourned until to-morrow at 10:00 A. M.

Journal 2, page 316.

EDWARD E. CUSHMAN,

Judge. [37]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER et al.,

Defendants.

Trial (Continued).

Now, on this 4th day of June, 1920, this cause comes on for trial with all parties present, likewise the jury. The roll-call is waived and the trial is resumed. The following witnesses were examined and sworn for defendants: T. E. Jones and Creed Lane, B. Clarey, M. W. Lawrence, R. Rice, Frank Heirister, Geo. E. White, Lemuel S. Fowler, James F. Mellison, Dr. Frank Brook, Mrs. James Mellison, C. E. Allerdile, J. E. Price and A. C. Hubbard, at which time defendants T. E. Jones and Creed Lane rest. Defendant Bellamy without submitting evi-

dence in defense rests, likewise the Government. Whereupon counsel for defendant Thomas Singer moves the Court for a directed verdict of not guilty on Counts I, II and III of the indictment filed herein. This motion was denied and exception allowed on each count. Counsel for defendant Clarence H. Bellamy moves for directed verdict of not guilty on Count I and same motion made on Count II and Count III of the indictment filed herein, but all motions were denied and exceptions allowed on each motion. Counsel for defendant Sarah E. Jones makes three motions for directed verdict of not guilty on Counts I, II and III and motions were denied and exceptions allowed on all three motions. Counsel for defendant Ethyl Hanson moves for directed verdict of not guilty on Counts I, II and III and motions were denied and exceptions allowed on all three motions. Counsel for defendants David Jones and Wm. Hanson makes three motions for a directed verdict of not guilty on Counts I, II and III of the indictment filed herein, but all three motions were denied and exceptions allowed. Counsel for defendants Geo. E. White, Lemuel S. Fowler, James Francis Mellison and Mrs. Sarah Jones makes three [38] motions for a directed verdict of not guilty on Counts I, II and III of the indictment filed herein, but all three motions were denied and exceptions allowed. Counsel for defendants Thos. E. Jones and Creed Lane make three motions for directed verdict of not guilty on Counts I, II and III of the indictment filed herein, but all motions were denied and exceptions allowed on each motion. Counsel for de-

fendant Thos. E. Jones moves to strike certain parts of the indictment, which was granted, the jury to be so instructed. The opening argument for the Government was made by Fred'k R. Conway. Recess from 5 P. M. to 7:30 P. M. was announced. Jury returned and all were present, also all defendants and attorneys for all parties present. Argument for Government was resumed by F. R. Conway. Argument to jury by F. A. Steel counsel for Sarah E. Jones, then an argument followed to jury by Carroll B. Graves, counsel for defendant Clarence H. Bellamy. Argument to jury by Wilmon Tucker, counsel for defendant Thomas Singer, and then an argument followed to jury by M. J. Gordon counsel for defendants Jones and Lane. And now the hour of adjournment having arrived and by counsel's consent, and the jury having been cautioned, it is ordered that this cause be adjourned until June 5, 1920, at 9:30 A. M.

Journal 2, page 321.

EDWARD E. CUSHMAN,

Judge. [39]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL FOWLER,

Defendant.

Trial (Continued).

Now, on this 5th day of June, 1920, this cause is resumed for trial with all parties present, likewise the jury. The roll-call was waived. Argument was made by counsel for defendants T. E. Jones and Creed Lane. Argument was made by E. H. Chavelle, counsel for defendants, David Jones, Herbert Wm. Hanson and Ethyl Hanson. Argument was made by J. F. Dore, counsel for defendants, Lemuel Fowler, White, Mellison, and Sarah Lewis. At 12:30 P. M. recess was announced until 2 P. M., at which time court again came in session, with the jury present and the roll-call was waived and the closing of the argument was made by Robert C. Saunders, counsel for the Government. The Court duly instructed the jury and it was agreed in open court that verdict if reached may be sealed and returned into court 10:00 A. M., Monday.

Journal 2, page 322.

EDWARD E. CUSHMAN,
Judge. [40]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL FOWLER et al.,

Defendants.

Trial (Continued).

Now, on this 7th day of June, 1920, this cause is resumed for trial, with all parties present and all jurors in the box. The roll-call is waived. The jury return a sealed verdict, which reads as follows: "We, the jury in the above-entitled cause, find the defendant Lemuel S. Fowler is guilty as charged in Count I of the indictment herein; and further find the defendant George E. White not guilty as charged in Count I of the indictment herein; and further find the defendant James Francis Millison not guilty as charged in Count I of the indictment herein; and further find the defendant Louis Trepanier not guilty as charged in Count I of the indictment herein; and further find the defendant Sarah Lewis not guilty as charged in Count I of the indictment herein; and further find the defendant Joe Vargus not guilty as charged in Count I of the indictment herein; and further find the defendant Thomas E. Jones not guilty as charged in Count I of the indictment herein; and further find the defendant Creed Lane is guilty as charged in Count I of the indictment herein; and further find the defendant David Jones not guilty as charged in Count I of the indictment herein; and further find the defendant Herbert Wm. Hanson is guilty as charged in Count I of the indictment herein; and further find the defendant Ethyl Hanson not guilty as charged in Count I of the Indictment herein; and further find the defendant Clarence H. Bellamy not guilty as charged in Count I of the Indictment herein; and further find the de-

fendant Arthur Pruce Paris not guilty as charged in Count I of the indictment herein; and further find the defendant Sarah Jones not guilty as charged in Count I of the indictment herein; and further [41] find the defendant Thomas Singer is guilty as charged in Count I of the indictment herein, and further find the defendant Lemuel S. Fowler is guilty as charged in Count II of the indictment herein; and further find the defendant George E. White not guilty as charged in Count II of the indictment herein; and further find the defendant James Francis Millison not guilty as charged in Count II of the indictment herein; and further find the defendant Louis Trepanier not guilty as charged in Count II of the indictment herein; and further find the defendant Sarah Lewis not guilty as charged in Count II of the indictment herein; and further find the defendant Joe Vargus not guilty as charged in Count II of the indictment herein; and further find the defendant Thomas E. Jones not guilty as charged in Count II of the indictment herein; and further find the defendant Creed Lane is guilty as charged in Count II of the indictment herein; and further find the defendant David Jones not guilty as charged in Count II of the indictment herein; and further find the defendant David Jones not guilty as charged in Count II of the indictment herein; and further find the defendant Herbert Wm. Hanson is guilty as charged in Count II of the indictment herein; and further find the defendant Ethyl Hanson not guilty as charged in Count II of the indictment herein; and further find the defendant Clarence H. Bellamy not

guilty as charged in Count II of the indictment herein; and further find the defendant Arthur Bruce Paris not guilty as charged in Count II of the indictment herein; and further find the defendant Sarah Jones not guilty as charged in Count II of the indictment herein; and further find the defendant Thomas Singer is guilty as charged in Count II of the indictment herein; and further find the defendant Lemuel S. Fowler is guilty as charged in Count III of the indictment herein; and further find the defendant George E. White not guilty as charged in Count III of the indictment herein; and [42] further find the defendant James Francis Millison not guilty as charged in Count III of the indictment herein; and further find the defendant Louis Trepanier not guilty as charged in Count III of the indictment herein; and further find the defendant Sarah Lewis not guilty as charged in Count III of the indictment herein; and further find the defendant Joe Vargus not guilty as charged in Count III of the indictment herein; and further find the defendant Thomas E. Jones not guilty, *not guilty* as charged in Count III of the indictment herein; and further find the defendant Creed Lane is guilty as charged in Count III of the indictment herein; and further find the defendant David Jones not guilty as charged in Count III of the indictment herein; and further find the defendant Wm. Hanson is guilty as charged in Count III of the indictment herein; and further find the defendant Ethyl Hanson not guilty as charged in Count III of the indictment herein; and further find the defendant Clarence H. Bellamy not guilty as charged

in Count III of the indictment herein; and further find the defendant Arthur Bruce Paris not guilty as charged in Count III of the indictment herein; and further find the defendant Sarah Jones not guilty as charged in Count III of the indictment herein, and further find the defendant Thomas Singer is guilty as charged in Count III of the indictment herein. Signed E. E. Rhodes, Foreman." The said verdict is published and received and filed as findings. Defendants Lemuel S. Fowler, Creed Lane, Herbert William Hanson and Thomas Singer each found guilty on Counts I, II and III. Defendants Geo. E. White, James Francis Millison, Louis Trepanier, Mrs. Sarah Lewis, Joe Vargus, Thomas E. Jones, David Jones, Ethyl Hanson, Clarence H. Bellamy, Arthur Bruce Paris and Sarah Jones found not guilty. The jury was discharged from further consideration herein. On oral stipulation of counsel for Government and counsel for all and each of the defendants, it is agreed that all merchandise exhibits introduced by the Government may now be returned to representative of [43] the Northern Pacific Railroad. This was so ordered and it was also agreed upon that the counsel for defendant Lewis may withdraw Defendant's Exhibit "B," "C" and "I," being one dozen steak knives and carving knife and fork. This was so ordered.

Journal 2, page 324.

EDWARD E. CUSHMAN,

Judge. [44]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
JAMES FRANCIS MILLISON, LOUIS
TREPANIER, MRS. SARAH LEWIS, JOE
VARGUS, THOMAS E. JONES, ED-
WARD BOURDELL, CREED LANE, DA-
VID HONES, HERBERT WM. HANSON,
ETHYL HANSON, CLARENCE H. *BEL-*
IMAY, ARTHUR BRUCE PARIS, SARAH
JONES, WILLIAM RATCLIFF AND
THOMAS SINGER,

Defendants.

Verdict.

We, the jury in the above-entitled cause find the defendant Lemuel S. Fowler is guilty as charged in Count I of the indictment herein; and further find the defendant George E. White not guilty as charged in Count I of the indictment herein; and further find the defendant James Francis Millison not guilty as charged in Count I of the indictment herein; and further find the defendant Louis Trepanier not guilty as charged in Count I of the indictment herein; and further find the defendant Sarah Lewis not guilty as charged in Count I of the indictment herein;

and further find the defendant Joe Vargus not guilty as charged in Count I of the indictment herein; and further find the defendant Thomas E. Jones not guilty as charged in Count I of the indictment herein; and further find the defendant Creed Lane is guilty as charged in Count I of the indictment herein; and further find the defendant David Jones not guilty as charged in Count I of the indictment herein; and further find the defendant Herbert Wm. Hanson is guilty as charged in Count I of the indictment herein; and further find the defendant Ethyl Hanson not guilty as charged in Count I of the indictment herein; and further find the defendant Clarence H. Belamy not guilty as charged in Count I of the indictment herein; and further find the defendant Arthur Bruce Paris [45] not guilty as charged in Count I of the indictment herein; and further find the defendant Sarah Jones not guilty as charged in Count I of the indictment herein; and further find the defendant Thomas Singer is guilty as charged in Count I of the indictment herein; and further find the defendant Lemuel S. Fowler is guilty as charged in Count II of the indictment herein; and further find the defendant George E. White not guilty as charged in Count II of the indictment herein; and further find the defendant James Francis Millison not guilty as charged in Count II of the indictment herein; and further find the defendant Louis Trepanier not guilty as charged in Count II of the indictment herein; and further find the defendant Sarah Lewis not guilty as charged in Count II of the indictment herein; and further

find the defendant Joe Vargus not guilty as charged in Count II of the indictment herein; and further find the defendant Thomas E. Jones not guilty as charged in Count II of the indictment herein; and further find the defendant Creed Lane is guilty as charged in Count II of the indictment herein; and further find the defendant David Jones not guilty as charged in Count II of the indictment herein; and further find the defendant Herbert Wm. Hanson is guilty as charged in Count II of the indictment herein; and further find the defendant Ethyl Hanson not guilty as charged in Count II of the indictment herein; and further find the defendant Clarence H. Bellamy not guilty as charged in Count II of the indictment herein; and further find the defendant Arthur Bruce Paris not guilty as charged in Count II of the indictment herein; and further find the defendant Sarah Jones not guilty as charged in Count II of the indictment herein; and further find the defendant Thomas Singer is guilty as charged in Count II of the indictment herein; and further find the defendant Lemuel S. Fowler is guilty as charged in Count III of the indictment herein; and further find the defendant George E. White not guilty as charged in Count III of the indictment herein; and further find the defendant James Francis [46] Millison not guilty as charged in Count III of the indictment herein; and further find the defendant Louis Trepainier not guilty as charged in Count III of the indictment herein; and further find the defendant Sarah Lewis not guilty as charged in Count III of the indictment herein; and further

find the defendant Joe Vargus not guilty as charged in Count III of the indictment herein; and further find the defendant Thomas E. Jones not guilty as charged in Count III of the indictment herein; and further find the defendant Creed Lane is guilty as charged in Count III of the indictment herein; and further find the defendant David Jones not guilty as charged in Count III of the indictment herein; and further find the defendant Herbert Wm. Hanson is guilty as charged in Count III of the indictment herein; and further find the defendant Ethyl Hanson not guilty as charged in Count III of the indictment herein; and further find the defendant Clarence H. Bellamy not guilty as charged in count III of the indictment herein; and further find the defendant Arthur Bruce Paris not guilty as charged in Count III of the indictment herein; and further find the defendant Sarah Jones not guilty as charged in Count III of the indictment herein; and further find the defendant Thomas Singer is guilty as charged in Count III of the indictment herein.

E. E. RHODES,
Foreman.

[Endorsed]: Verdict. Filed in the United States District Court, Western District of Washington, Northern Division, June 7, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [47]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPANIER
and Mrs. A. J. LEWIS,

Defendants.

Motion for New Trial (Thomas Singer).

COMES NOW THOMAS SINGER, one of the
defendants in the above-entitled cause, by John F.
Dore, his attorney, and moves the Court to set aside
the verdict of the jury rendered herein, and to grant
a new trial, and for reasons therefor, shows to the
Court the following:

A. The Court erred in overruling defendant's
demurrer to Count I, Count II and Count III of the
indictment.

B. The verdict is contrary to the law of the case.

C. The verdict is not supported by any evidence
in the case.

D. The Court upon the trial of the case, admitted incompetent evidence offered by the United States.

E. The Court upon the trial of the case excluded competent evidence offered by the defendant.

F. The Court erred in refusing to direct a verdict of not guilty at the close of the Government's evidence.

G. The Court erred in refusing to direct a verdict of not guilty at the close of all the evidence.

Dated this 21st day of June, 1920.

JOHN F. DORE,

Attorney for Defendant, Thomas Singer. [48]

Acceptance of service of within Motion for New Trial acknowledged this 21st day of June, 1920.

ROBERT C. SAUNDERS,

Attorney for Plaintiff.

[Endorsed]: Motion for New Trial. Filed in the United States District Court, Western District of Washington, Northern Division. June 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [49]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, JAMES
FRANCIS MELLISON, THOMAS SINGER,
DAVID JONES, WILLIAM RATCLIFF,
CREED LANE, GEORGE H. TREPANIER
and MRS J. A. LEWIS,

Defendants.

Motion for New Trial (Lemuel S. Fowler). . . .

COMES NOW LEMUEL S. FOWLER, one of the
defendants in the above-entitled cause, by John F.
Dore, his attorney, and moves the Court to set aside
the verdict of the jury rendered herein, and to grant
a new trial, and for reasons therefor, shows to the
Court the following:

A. The Court erred in overruling defendant's
demurrer to Count I, Count II and Count III of the
indictment.

B. The verdict is contrary to the law of the case.

C. The verdict is not supported by any evidence
in the case.

D. The Court upon the trial of the case admitted incompetent evidence offered by the United States.

E. The Court upon the trial of the case excluded competent evidence offered by the defendant.

F. The Court erred in refusing to direct a verdict of not guilty at the close of the Government's evidence.

G. The Court erred in refusing to direct a verdict of not guilty at the close of all the evidence.

Dated this 21st day of June, 1920.

JOHN F. DORE,
Attorney for Defendant Lemuel S. Fowler. [50]

Acceptance of service of within Motion for New Trial acknowledged this 21st day of June, 1920.

ROBT. C. SAUNDERS,
Atty. for Plaintiff.

[Endorsed]: Motion for New Trial. Filed in the United States District Court, Western District of Washington, Northern Division. June 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.
[51]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL S. FOWLER et al.,
Defendants.

Motion in Arrest of Judgment and for New Trial.

Now, on this 21st day of June, 1920, this cause comes on for hearing on motion of defendants Lemuel S. Fowler and Thomas Singer in arrest of judgment and motion for new trial. These motions were argued by respective counsel and both motions denied and exceptions allowed.

Journal 8, page 359. [52]

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER et al.,

Defendants.

Sentence (Lemuel S. Fowler).

Now, on this 21st day of June, 1920, the defendant Lemuel S. Fowler comes into open court for sentence and being informed by the Court of the indictment returned against him in this cause and of his conviction of record herein, he is asked whether he has any legal cause to show why sentence should not be passed and judgment had against him, he nothing says as before he hath said, wherefore, by reason of the law and the premises, it is CONSIDERED, ORDERED and ADJUDGED that the defendant is guilty of violation of section 37, Criminal Code, to violate Act of February 13, 1913, and that he be sentenced to be

confined in the United States Penitentiary at McNeil Island, Washington, or in such other prison as may be hereafter provided for the confinement of persons convicted of offenses against the laws of the United States for a period of eighteen months at hard labor from and after this date on each count of the indictment, terms to run concurrently, and to pay a fine of \$500.00 on each of Counts I, II and III of the indictment herein, and that he be further imprisoned at said prison until he shall have paid said fines or until he shall be discharged by law, and defendant is now remanded into the custody of the U. S. Marshal to carry this sentence into execution.

Judgment & Decree Book, page 508, vol. 2. [53]

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, THOMAS SINGER et al.,

Defendants.

Sentence (Thomas Singer).

Now, on this 21st day of June, 1920, comes the defendant Thomas Singer into open court for sentence and being informed by the Court of the indictment returned against him in this cause and of his conviction of record herein, he is asked whether he has any legal or just cause to show why sentence should not be passed and judgment had

against him, he nothing says save as before he hath said. Wherefore, by reason of the law and the premises, it is CONSIDERED and ADJUDGED that the defendant is guilty of violation of section 37, Criminal Code, to violate Act of February 13, 1913, and that he be sentenced to be imprisoned in the United States Penitentiary at McNeil Island, Washington, or in such other prison as may be hereafter provided for the confinement of persons convicted of offenses against the laws of the United States for a period of one year and one day at hard labor from and after this date on each count of the indictment herein, terms to run concurrently, and to pay a fine of \$500.00 on each of Counts I, II and III, and that he be further imprisoned at the same place until he shall have paid said fines or until he is otherwise discharged by law, and defendant is now remanded into the custody of the United States Marshal to carry said sentence into execution.

Judgment and Decree Book, page 508, vol. 2. [54]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,

EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPA-
NIER and MRS. J. A. LEWIS,

Defendants.

Petition for Writ of Error (Lemuel S. Fowler).

In the Above-entitled Court, and to the Honorable
EDWARD E. CUSHMAN, Judge Thereof:

COMES NOW the above-named defendant Lem-
uel S. Fowler, and by his attorney and counsel re-
spectfully shows that on June 7th, 1920, a jury
empanelled in the above-entitled court and cause,
returned a verdict finding said Lemuel S. Fowler
guilty of the indictment theretofore filed in the
above-entitled court and cause, and thereafter,
within the time limited by law, under rules and
order of this Court, defendant moved for a new
trial, which motion was by the Court overruled and
exception thereto allowed, and likewise, within said
time, filed his motion for arrest of judgment, and
which was by the Court overruled, and to which an
exception was allowed; and thereafter, on the 21st
day of June, 1920, this defendant was, by order and
judgment and sentence of the above-entitled court
in said cause, sentenced to pay a fine of \$——
and to serve a term of ——.

And your petitioner, feeling himself aggrieved
by this verdict, and the judgment and sentence of

the Court, entered herein aforesaid, and by the orders and rulings of said Court, and proceedings in said cause, now herewith petition this Court for an order allowing them to prosecute a writ of error from said [55] judgment and sentence to the Circuit Court of Appeals of the United States for the Ninth Circuit, under the laws of the United States, and in accordance with the procedure of said court made and provided, to the end that said proceedings as herein recited, and as more fully set forth in the assignments of error presented herein, may be reviewed and manifest error appearing upon the face of the record of said proceedings, and upon the trial of said cause, may be by said Circuit Court of Appeals corrected, and that for said purpose, a writ of error and citation thereon should issue as by law and ruling of the Court provided, and wherefore, premises considered, your petitioner prays that a writ of error issue to the and that said proceedings of the District Court of the United States of the Western District of Washington may be reviewed and corrected, said errors in said record being herewith assigned, and presented herewith, and that pending the final determination of said writ of error by said Appellate Court, an order may be entered herein that all further proceedings be suspended and stayed, and that pending such final determination said defendant be admitted to bail.

JOHN F. DORE,
Attorney for Lemuel S. Fowler,
Plaintiff in Error.

[Endorsed]: Petition for Writ of Error. Filed in the United States District Court, Western District of Washington, Northern Division. June 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [56]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPA-
NIER and MRS. J. A. LEWIS,

Defendants.

Petition for Writ of Error (Thomas Singer).

In the Above-entitled Court, and to the Honorable
EDWARD E. CUSHMAN, Judge Thereof:

COMES NOW the above-named defendant
Thomas Singer, and by his attorney and counsel,
respectfully shows that on June 7th, 1920, a jury
empanelled in the above-entitled court and cause,

returned a verdict finding Thomas Singer guilty of the indictment theretofore filed in the above-entitled court and cause, and thereafter, within the time limited by law, under rules and order of this Court, defendant moved for a new trial, which motion was by the Court overruled and exception thereto allowed, and likewise, within said time, filed his motion for arrest of judgment, and which was by the Court overruled, and to which an exception was allowed; and thereafter, on the 21st day of June, 1920, this defendant was, by order and judgment and sentence of the above-entitled court in said cause, sentenced to pay a fine of \$——— and to serve a term of ——.

And your petitioner, feeling himself aggrieved by this verdict, and the judgment and sentence of the Court, entered herein aforesaid, and by the orders and rulings of said Court, and proceedings in said cause, now herewith petition this Court for an order allowing them to prosecute a writ of error from said [57] judgment and sentence to the Circuit Court of Appeals of the United States for the Ninth Circuit, under the laws of the United States, and in accordance with the procedure of said court made and provided, to the end that said proceedings as herein recited, and as more fully set forth in the assignments of error presented herein, may be reviewed and manifest error appearing upon the face of the record of said proceedings, and upon the trial of said cause, may be by said Circuit Court of Appeals corrected, and for that purpose, a writ of error thereon should issue as by

law and ruling of the Court provided, and wherefore, premises considered, your petitioner prays that a writ of error issue to the end that said proceedings of the District Court of the United States of the Western District of Washington may be reviewed and corrected, said errors in said record being herewith assigned, and presented herewith, and that pending the final determination of said writ of error by said Appellate Court, an order may be entered herein that all further proceedings be suspended and stayed, and that pending such final determination, said defendant be admitted to bail.

JOHN F. DORE,
Attorney for Thomas Singer,
Plaintiff in Error.

[Endorsed]: Petition for Writ of Error. Filed in the United States District Court, Western District of Washington, Northern Division. June 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [58]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,

EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPA-
NIER and MRS. A. J. LEWIS,

Defendants.

Assignments of Error.

COME NOW the above-named defendants Lemuel S. Fowler and Thomas Singer, and in connection with their petition for writ of error in this case submitted and filed herewith, assign the following errors which the defendants aver and say occurred in the proceedings and at the trial in the above-entitled cause and in the above-entitled court, and upon which they rely to reverse, set aside and correct the judgment and sentence entered herein, and say that there is manifest error appearing upon the fact of the record and in the proceedings, in this:

1. The Court erred in permitting the introduction, over defendants' objection, to the testimony relating to any alleged conspiracies, except that conspiracy testified to by Ratcliff as being the one that he had entered a plea of guilty to. That the Government, by calling Ratcliff as a witness, after his plea of guilty, had elected to try the conspiracy included in the plea of guilty and only that conspiracy.

2. The Court erred in refusing to strike the testimony relating to conspiracies other than those to

which Ratcliff testified that he was a member and to which he had plead guilty. [59]

3. The Court erred in overruling the demurrer to each of the counts of the indictment.

4. The Court erred in overruling the motion to compel the Government to elect, at the conclusion of the Government's case, upon which conspiracy, of the many concerning which evidence had been introduced, the Government would rely for a conviction.

5. The Court erred in denying the motion for a directed verdict of each of the defendants at the conclusion of the Government's case, when each of the defendants challenged the sufficiency of the evidence, and the Court also erred in overruling the several and separate motions of the defendants, at the close of the Government's case, for a directed verdict and for a dismissal of said action, and for an instruction instructing the jury to find the several defendants not guilty, the sufficiency of the evidence being challenged.

6. The Court erred in permitting, over the objection of defendant Fowler, the witness Sarah Lewis to take the stand before defendant Fowler, to be interrogated as follows:

Q. Do you know Lemuel Fowler? A. Yes.

Q. How long have you known him?

A. Oh, ten years, I should judge; nine or ten years.

Q. At Auburn?

A. At Seattle and Auburn.

Q. How long has he been a roomer at your hotel? A. Ever since he has been in Auburn.

Q. You knew he was arrested, charged and convicted of stealing during that time?

Mr. DORE.—I object to that as incompetent, irrelevant and immaterial.

Mr. SAUNDERS.—I think, your Honor, we have a right to ask.

The COURT.—Objection overruled.

Q. Answer the question, please.

A. Yes, I did. [60]

7. The Court erred, in permitting, over the objection of defendant Fowler, the Government, on cross-examination, to make the following inquiry:

Q. You left the employ of the N. P. in 1917?

A. Yes, sir.

Q. Under conviction of theft from cars?

Mr. DORE.—I object to that as incompetent, irrelevant and immaterial.

Q. And you left the employ of the Northern Pacific as a brakeman when you were convicted of theft from box-cars?

A. I plead guilty to petit larceny; yes, sir.

Q. From a box-car? A. No, sir.

Q. From the railroad? A. No, sir.

Q. From what, then?

A. For having the goods in my possession.

Q. That came from the box-cars,—stolen goods? A. They came from box-cars?

Q. I am asking you, you plead guilty to having stolen goods in your possession?

A. Yes, sir.

Q. That was stolen from box-cars?

A. Yes, sir.

Q. And you have not been in the railway employ since? A. No, sir.

8. That the Court erred in passing upon said objection and stating in the presence of the jury that there is a moral turpitude in conviction for larceny, whether it is grand or petit, and instructing the jury that it only bears [61] if the witness admits that he was convicted,—it only bears on his credibility as a witness,—the instruction being incorrect, the only ——— to credibility is whether or not the defendant had been convicted of a felony.

9. The Court erred in admitting, over defendant's objection and exception, the following questions and answers by John Winkvist, a witness for the Great Northern and a special agent for the Northern Pacific Railway Company:

Q. From your performance of those duties as special agent, have you learned the methods whereby goods are and may be stolen from sealed cars, without breaking the seals? Please explain them to the jury.

Mr. DORE.—I object to that as incompetent, irrelevant and immaterial, the methods by which cars may be broken into without breaking the seals.

The COURT.—Objection overruled.

Mr. DORE.—We desire an exception.

The COURT.—Allowed.

A. At the bottom of the side door of a car are lugs that hold the door in place. These

lugs are held there by bolts screwed through the beam of the car. The nuts on the inside can be taken off, the bolts taken out, the lugs removed, and the door swung out so a man can enter.

Q. Without breaking the seal?

A. Without breaking the seal.

Q. Can a door be fixed up in its former condition to look just like it did before?

A. Yes, sir; everything can be replaced.

Q. Are there other methods by which a car can be pilfered?

Mr. DORE.—I object to that as incompetent, irrelevant and immaterial, and not within the issue. [62]

The COURT.—Objection overruled. That is, without breaking the seal?

Mr. DORE.—We desire an exception.

A. No, that is the only thing that I know of right now.

10. Thereafter and within the time limited by law and the order and rules of this Court, said defendants and each of them moved for a new trial, which said motion was overruled by the Court, and an exception allowed the defendants, which ruling of the Court the defendants now assign as error.

11. That thereafter, and within the time limited by law, the defendants moved the Court that judgment and sentence upon the verdict rendered in the above-entitled cause be arrested and stayed, which motion was overruled by the Court and exception

allowed the defendants, and now the defendants assign as error the overruling of said motion.

12. The Court thereafter entered judgment and sentence against said defendants and each of them upon the verdict of guilty rendered upon said indictment, to which ruling and judgment and sentence the defendants and each of them excepted, and now the defendants assign as error that the Court so entered judgment and sentence upon the verdict.

And as to each and every of said assignments of error, as aforesaid, the defendants say that at the time of making of the order or ruling of the Court complained of, the defendants duly asked and were allowed an exception to the ruling and order of the Court.

JOHN F. DORE,
Attorney for Defendants, Lemuel S. Fowler and
Thomas Singer. [63]

Acceptance of service of within Assignments of Error acknowledged this 21st day of June, 1920.

ROBT. C. SAUNDERS,
Attorney for Plaintiff.

[Indorsed]: Assignments of Error. Filed in the United States District Court, Western District of Washington, Northern Division. June 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [64]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER et al.,

Defendants.

**Order Allowing Writ of Error and Fixing Amount of
Bond.**

A writ of error is granted this 21st day of June, 1920, and it is further ORDERED that said defendant Lemuel S. Fowler be admitted to bail, and the amount of the supersedeas bond to be filed by said defendant Lemuel S. Fowler be as follows: \$5,000.00, and it is further ORDERED that upon said defendant Lemuel S. Fowler filing his bond in the aforesaid sum, to be approved by the clerk of this Court, he shall be released from custody pending the determination of the writ of error herein assigned.

Done in open court, this 21st day of June, 1920.

EDWARD E. CUSHMAN,

Judge. [[65]

[Endorsed]: Order Allowing Writ of Error and Fixing Amount of Bond. Filed in the United States District Court, Western District of Washington, Northern Division. June 21, 1920. F. M.

Harshberger, Clerk. By S. E. Leitch, Deputy.
[66]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPAN-
IER and Mrs. J. A. LEWIS,

Defendants.

**Order Allowing Writ of Error and Fixing Amount of
Bond.**

A writ of error is granted this 21st day of June, 1920, and it is further ORDERED, said defendant Thomas Singer be admitted to bail, and the amount of the supersedeas bond to be filed by said defendant Thomas Singer be as follows: \$5,000.00 and it is further ORDERED that upon said defendant Thomas Singer filing his bond in the aforesaid sum, to be approved by the clerk of this Court, he shall

be released from custody pending the determination of the writ of error herein assigned.

Done in open court, this 21st day of June, 1920.

EDWARD E. CUSHMAN,
Judge.

G. O. B. 8, page 203.

[Endorsed]: Order Allowing Writ of Error and Fixing Amount of Bail Bond. Filed in the United States District Court, Western District of Wash., Northern Division. June 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [67]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLIS-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPAN-
IER and Mrs. J. A. LEWIS,
Defendants.

Recognizance of Lemuel Fowler.

The United States of America,
Western District of Washington,
Northern Division,—ss.

BE IT REMEMBERED that on this 21st day of June, 1920, before me, F. M. Harshberger, Clerk of the District Court of the United States, within and for the aforementioned court, personally appeared Lemuel S. Fowler, and acknowledged himself to owe the United States of America the sum of \$5,000, Five Thousand Liberty Bonds herewith deposited in said court in bonds of the United States if default should be made in the following condition, to wit:

The condition of this recognizance is such that whereas said Lemuel S. Fowler was on the 21st day of June, 1920, sentenced in the above-entitled cause to pay a fine of \$500.00 on each count, a total of \$1,500.00 and to serve a term of imprisonment at 18 months at U. S. Penitentiary at McNeil Island, to run concurrently, and whereas said defendant has sued out a writ of error to the Ninth Circuit Court of Appeals, and whereas the Court has fixed the defendant's supersedeas bond to stay execution on said sentence,—

NOW, THEREFORE, if said defendant shall prosecute his said writ of error diligently and to effect and shall obey and abide by and render himself amenable [68] to all orders which said Appellate Court shall make or order to be made and shall perform any judgment made and entered by

said Appellate Court including the payment of any judgment on appeal, and shall not leave the jurisdiction of this Court without leave first had and obtained, and shall obey and render himself amenable to any and all orders made or entered by the District Court of the United States for the Western District of Washington, and shall, pursuant to any such order, surrender himself, and will obey and perform any judgment of the Circuit Court of Appeals, then this recognizance to be void; otherwise to remain in full force and effect.

LEMUEL S. FOWLER.

Taken and acknowledged before me this 21st day of June, 1920.

[Seal]

LEETA D. MANNING,
Deputy Clerk of the United States District
Court.

O. K.—ROBT. C. SAUNDERS.

Approved.

EDWARD E. CUSHMAN,
Judge.

[Endorsed]: Recognizance of Lemuel Fowler.
Filed in the United States District Court, Western
District of Washington, Northern Division. June
21, 1920. F. M. Harshberger, Clerk. By S. E.
Leitch, Deputy. [69]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPAN-
IER and Mrs. J. A. LEWIS,
Defendants.

Bail Bond of Thomas Singer.

KNOW ALL MEN BY THESE PRESENTS,
That we, Thomas Singer, as principal, and George
C. Rickhard and Adolph Behrens, as sureties, are
held and firmly bound unto the United States of
America, plaintiff in the above-entitled action, in
the penal sum of *Five Thousand* (\$5,000), lawful
money of the United States, for the payment of
which, well and truly to be made, we bind ourselves,
our and each of our heirs, executors, administra-
tors, successors and assigns, jointly and severally,
firmly by these presents,

The condition of this obligation is such that whereas the above-named defendant Thomas Singer was, on the 21st day of June, 1920, sentenced in the above-entitled cause, to serve for a period of thirteen months in the United States penitentiary at McNeil Island, sentence to run concurrently, in the State of Washington, and was fined in the sum of Five Hundred Dollars on each count, a total of Fifteen Hundred Dollars; and

Whereas, said defendant has sued out a writ of error from the sentence and judgment in said cause to the Circuit Court of Appeals of the United States for the Ninth Circuit; and

Whereas, the above-entitled court has fixed the defendant's bond, to stay execution of the judgment in said case, in the sum of [70] Five Thousand Dollars:

Now, Therefore, if said defendant, Thomas Singer, shall diligently prosecute his said writ of error to effect, and shall obey and abide by and render himself amenable to all orders which said Appellate Court shall make or order to be made in the premises, and shall render himself amenable to and obey all process issued, or ordered to be issued by said Appellate Court herein, and shall perform any judgment made or entered herein by said Appellate Court, including the payment of any judgment on appeal, and shall not leave the jurisdiction of this court without leave being first had, and shall obey and abide by and render himself amenable to any and all orders made or entered by the District Court of the United States for the Western Dis-

trict of Washington, Northern Division, and will render himself amenable to and obey any and all orders issued herein by said District Court, and shall, pursuant to any order issued by said District Court, surrender himself, and will obey and perform any judgment entered herein by said District Court of Appeals or said District Court, then this obligation to be void; otherwise to remain in full force and effect.

Sealed with our seals and dated this 21st day of June, 1920.

THOS. S. SINGER.

GEORGE C. RICKHARD.

ADOLPH BEHRENS.

United States of America,
State of Washington,
County of King,—ss.

George C. Rickhard, Adolph Behrens, being first duly sworn, upon oath, each for himself *and herself*, and not for the other, says: I am a resident of the State of Washington, over the age of twenty-one years, and not an attorney, counselor-at-law, sheriff, clerk of the Superior Court, or other officer of such court, or any other court; [71] that I am worth, over and above all debts and liabilities, and exclusive of property exempt from execution, in real estate situate within King County, Washington, as follows: Adolph Behrens, \$5,000; George Rickhard, \$5,000.

GEORGE C. RICKHARD.

ADOLPH BEHRENS.

Subscribed and sworn to before me this 21st day of June, 1920.

[Seal] LEETA D. MANNING,
Deputy Clerk U. S. District Court, Western District of Washington.

Approved.

EDWARD E. CUSHMAN,
Judge.

O. K.—ROBERT C. SAUNDERS,
U. S. District Atty.

B. & S., page 101.

[Endorsed]: Bail Bond of Thomas Singer. Filed in the United States District Court, Western District of Washington, Northern Division. June 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [72]

United States District Court, Western District of Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,
vs.

LEMUEL S. FOWLER,
Defendant.

**Order Extending Time to File Proposed
Amendments to Bill of Exceptions.**

On motion of the United States Attorney, John F. Dore, Esquire, as attorney for the defendants,

Lemuel S. Fowler and Thomas Singer, being present and consenting thereto,—

IT IS ORDERED that the time within which proposed Amendments to the proposed bill of exceptions filed with the clerk on behalf of the defendants last above named be, and the same is, hereby extended to and until fifteen days beyond the time provided by rule.

FRANK H. RUDKIN,
United States District Judge.

O. K.—JOHN F. DORE,
Attorney for Defendants.

G. O. B. 8, page 191.

[Endorsed]: Order. Filed in the United States District Court, Western District of Wash., Northern Division. July 13, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [73]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL S. FOWLER, THOMAS SINGER, et al.,
Defendants.

Bill of Exceptions.

BE IT REMEMBERED, that on the 25th day of May, 1920, at the hour of ten o'clock A. M., the above-

entitled court before the Honorable Edward E. Cushman, Judge thereof; the plaintiff appearing by Robert Saunders, United States Attorney for said District, and by Fred R. Conway, Assistant United States Attorney for said District, and the defendants being present in person and by their counsel as follows: Defendant Lemuel S. Fowler, by his attorney John F. Dore, and defendant Thomas Singer by his attorney Wilmon Tucker.

A jury having been regularly and duly impanelled and sworn to try the cause, and the Assistant United States Attorney having made a statement to the jury, the following evidence was thereupon offered:

Mr. MORRIS.—May it please your Honor, heretofore in this court, the defendant William Ratcliff entered his plea of not guilty to Indictment No. 5249, I believe. At this time Mr. Ratcliff desires to withdraw his plea of not guilty to said indictment.

The COURT.—There are three counts in this indictment.

Mr. MORRIS.—It is the conspiracy indictment.

The COURT.—There are three conspiracies charged; the conspiracy to [74] defraud, and the conspiracy to violate one section and then a conspiracy to violate another section. Does he wish to plead guilty to all three counts?

Mr. SAUNDERS.—I so understand, your Honor.

Mr. MORRIS.—It is agreeable to the defendant.

The COURT.—Am I correctly advised,—do you desire to withdraw your plea of not guilty and plead guilty to the three counts in the indictment?

Mr. RATCLIFF.—Yes, sir.

The COURT.—Let the records be changed and the plea of guilty entered to each of the three counts. Move for sentence.

Mr. SAUNDERS.—The Government does not move for sentence, your Honor, but asks that it be postponed.

Testimony of William Radcliff, for the Government.

WILLIAM RADCLIFF a witness produced on behalf of the Government, being duly sworn, testified as follows:

Direct Examination.

My name is William Radcliff. I am thirty-nine years of age, and by occupation a railroad conductor; I have been a railroad conductor for twelve years, working for the Northern Pacific Railway Company. I ran on the division from Auburn to Ellensburg and Ellensburg to Auburn. I have lived in Auburn since June 16, 1916. I am a married man and have a family. I was a freight conductor running on freight trains. The trains are classified as an "Extra" from Auburn to Ellensburg and from Ellensburg back to Auburn. Auburn is the terminus of the Seattle Division of the Northern Pacific Railroad, and the freight-yards and roundhouse is there. They handle in the freight-yards an average of five hundred cars a day; there are in the yards nine day crews and seven night crews, numbering about a hundred men including engineers and switchmen. The crews make up the trains as they come in, break them up and make them up for the various points they are billed to. From the Auburn yards to Covington is

(Testimony of William Ratcliff.)

eight miles. On the other side of Covington is Mile Post 91; that is, counting from Ellensburg West. The grade from Auburn to Lester is one per cent; the grade [75] from Lester to the summit is 2.2; from the summit to Easton is 2.2 going east; and eight-tenths of one per cent from Easton Ellensburg. I'd make a round trip on an average of three days and a half; the average time for the month would be twelve hours a trip; twelve to fourteen.

From March 1918, up to the finding of the indictment, the train crew consisted of three brakemen besides myself, the conductor. The head brakeman rides the engine; the other two ride the caboose. The caboose is carried on the rear end of the train, and has a cupola for a lookout over the train on both sides. Inside the caboose is the clothes locker, toilet and lockers for coal and tools, there is just one clothes locker, and this is accessible to the four men of the crew.

On March 20th, 1920, I made a trip from Ellensburg to Auburn, leaving Ellensburg at 9:00 A. M. and arriving at Auburn at 4:30 P. M. the same day. C. H. Goldman, Dave Jones and H. W. Hanson were my brakemen on the trip.

I heard a conversation between the defendants Dave Jones and H. W. Hanson in my caboose on that trip about getting shoes. They said they were going to get four cases of shoes and that they had a sale for them. The four cases of shoes were in the Northern Pacific freight-car; in the P. F. E. refrigerator-car. The train consisted of forty-five cars carrying mer-

(Testimony of William Radcliff.)

chandise, coal, iron and tin; way bills and manifest were in the caboose showing whether the cars contained merchandise or commodities. On the east side of the divide before we got to Easton, I heard the defendants Jones and Hanson in conversation. After the conversation they carried the four cases of shoes off of the train and put them in the salal brush, about Mile Post 91,—about three miles east of Covington. The train stopped at this point because of a hot-box on a car of coal; it stopped about 30 minutes. I saw the defendants Jones and Hanson take these shoes in their boxes from the car and cache them in the salal brush. It was about 2:30 P. M. The train then proceeded to Auburn and arrives there at 4:30 P. M.

Mr. Hanson said he had a sale for the shoes and the money would be equally divided between the three of us. He gave samples of the shoes to a man named Ayers to be sold in Renton and got a price for them [76]

The document marked Government's Exhibit "I" is a Wheel Report of my train on that date. The figures and writing is in my handwriting, and shows that the shoes were being transported in Car P. F. E. 12,320.

Here Wheel Report was admitted as Government's Exhibit "I."

Witness identifies cases of shoes as those having been taken out of the car and cached in the salal brush, by defendants Jones and Hanson near Mile

(Testimony of William Radcliff.)

Post 91. They were admitted in evidence as Government's Exhibits 2, 3 and 4.

Between the time the shoes were taken out of the car and hidden, and now, I have seen two cases of them.

On the evening of March 27th last, I had a talk with Hanson about these shoes; also with Mrs. Hanson and a man named Ayers. Hanson and his wife live about a mile from my house at Auburn. William Hanson came to my house that day in an automobile; my wife was there at that time. Hanson proposed that we go up and get the shoes in the salal brush near Mile Post 91. We held a conversation with Ayers. Ayers was in his car, and Hanson's car was standing close to Ayers' car at the corner of Main and Enumclaw Road. Hanson said that a sale had been made; he said that samples had been furnished Ayers, and that Ayers had made a deal with Rogers at Renton, a dollar and a half for the canvas shoes and three dollars for the other shoes. Ayers was to get a commission of 60¢ a pair for selling the shoes, on delivery.

I got into Hanson's car, with Mrs. Hanson and Herbert William Hanson. Hanson's car went first and was followed by Ayers' car containing Ayers alone. They walked up into the salal brush, and after about thirty minutes got two cases of shoes that I have identified here, carried them down to the road and loaded them into Ayers' car. We then went to Auburn. On arriving at Auburn, Hanson said he was tired, and asked me to go to Renton and collect the

(Testimony of William Radcliff.)

money. We went up to the foot of the Pacific Highway where it meets the road leading to cemetery hill. Ayers signalled with a spotlight and waited twenty minutes. We then drove back to Auburn.

Ayers and I went to the St. Elmo Hotel, owned by Mrs. J. A. Lewis, one of the defendants here. It was about 12:30 A. M. on the morning of the 28th. I rang the office bell and she came down to the door. I asked for Fowler; I told her that Ayers had an agreement to meet him that night with some tires she said he was up [77] on the hill getting some tires. Then I told her I had a shoe deal. She said "Who is the man?" I says: "I don't know." I told her they were sold in Renton, and the man was recommended to me by Hanson as having done quite a bit of business with him before and he was all right. She said nothing else.

Ayers and I got into the machine and went out to the foot of cemetery hill, worked a signal a few times on the side of the hill, and Fowler's car was seen coming down with yellow headlights on. Fowler's car came within fifty feet of the rear of the machine we were in, and contained Fowler and a man unknown to me, and twelve automobile tires. I later saw the tires when they were unloaded at Renton. I did not hear Fowler say anything when he drove up. I looked out of the car and I could see Fowler and Ayers talking a couple of minutes; I did not hear them. Ayers then drove his car to Renton, followed by Fowler. I rode in Ayers' car. We got to Renton and went into the alley to the garage; it was Rogers'

(Testimony of William Radcliff.)

garage; we waited while Ayers went and notified Rogers that the goods had arrived; in a little while Mr. Rogers came down and opened up the sliding-doors of the garage; Ayers drove in and unloaded the shoes, two cases of which I have identified; as Ayers backed out of the garage, Fowler drove in; as Ayers backed out, the deputies came in.

Rogers says: "Count the shoes while I help him get those tires out." Then the sheriffs came in and arrested the three of us, myself, Fowler and Mellison; Mellison was the man who had come down the hill in Fowler's machine. Ayers worked an automatic on the sheriffs and backed the car out of the garage. He has been seen in Auburn several times since. The automatic revolver was taken off Fowler. Mellison, Fowler and I were taken to jail. The Chinese matting offered in evidence as Government Exhibits 5 and 6, were taken off my train on March 2d, 1920. The matting came out of a Pennsylvania car. The members of my crew were C. H. Goldman, Dave Jones and W. H. Hanson. Goldman was head brakeman; Dave Jones and Hanson were also brakemen. Jones and Hanson took the two rolls of matting out of the car at Easton. Before they took them, Hanson told me he was going to get some matting. The matting was left on the right of way at Easton until we came back. The matting was thrown out of the car at 11:15 P. M. We got back to [78] that place at 6 P. M. on the 3d. Jones and Hanson picked up the matting and threw it into an empty car,

(Testimony of William Radcliff.)

and it was hauled to Covington and put off in the brush by Hanson and Jones.

Hanson afterwards went up in the automobile and got the matting, and left two rolls at my house. He left it on the morning of the 4th.

I identify Government's Exhibit 7 as a Wheel Report, showing that the matting was being hauled out from Auburn towards Ellensburg, on the Pennsylvania Railroad 43,493. Car was marked "bad order." It had a defective door. The top was open at least eighteen to twenty inches, and was not connected on the top.

The Wheel Report is made up from waybills; these bills are given to me by the yard clerk, and I deliver them to the man at the next division; while the train is moving; waybills are kept in a desk in the caboose; the brakemen and conductor have access to them, as the desk is not locked. Waybills showing the car that contained the matting were in my desk in the caboose. The Wheel Report is made out just before we leave the terminal, and at the end of the run is turned over to the yardmaster; Wheel Reports are made in triplicate.

I know the defendant Trepanier; he was a brakeman and ran as part of my crew a few trips. He lived in Auburn. Late in October, 1918, Trepanier brought an electric drill to my house. I had some work to do but could not use the drill. Trepanier told me he had one,—said he had gotten it out of a railroad car a couple of months prior to that time. The drill was an electric, Tempco single motor drill.

(Testimony of William Radcliff.)

I had it about seven days, and Mr. Trepanier came and took it away. I could not identify the drill; there are hundreds like it and I did not get the number of it. I failed as a conductor to protect the property of the railroad company.

Mrs. Lewis is the proprietor of the St. Elmo Hotel, at Auburn, Washington. Fowler rooms in her hotel; how long he has roomed there I don't know.

The waybill for the shoes was also in my caboose.
[79]

Cross-examination.

(Questions by Mr. DORE.)

Q. Mr. Ratcliff, you were the conductor on these two trains? The train that the shoes came off of, and the train that the matting came from?

A. Yes, sir.

Q. And the agreement—the conspiracy to rob the railroad, to which you have pleaded guilty, consisted of an agreement to steal from the car upon which the shoes were, and the cars upon which the matting was—that was the criminal conspiracy that you were a part of? A. Yes.

Q. With which of these defendants did you ever enter into an agreement to commit a crime against the railroad? A. Hanson and Jones.

Q. Hanson and Jones. Those are the only two?

A. Yes, sir.

Q. Those are the only two people of all these defendants that you had any agreement to violate any of the laws of the railroads belonging to the United States?

(Testimony of William Radcliff.)

A. Yes, sir.

Q. And these three conspiracies to which you have entered a plea of guilty included both of your co-conspirators, Hanson and Jones, and no other persons in this court?

A. Yes, sir.

Q. You never, in other words, had any agreement to commit any crimes with George H. White?

A. No, sir.

Q. And you didn't plead guilty to any crime to which he was a party? A. No, sir.

Q. And you never had any agreement to commit any crime with Clarence H. Bellamy. [80]

A. No, sir.

Q. And you had no agreement to commit a crime with Albert Bruce Paris? A. No.

Q. And you had no agreement to commit any crime or crimes with Thomas E. Jones? A. No.

Q. Or with Edward Bourdell?

A. No.

Q. Or with Sarah Jones? A. No.

Q. Or Joe Vargus? A. No.

Q. But you did with Herbert William Hanson?

A. Yes, sir.

Q. And you did with Ethel Hanson, so far as you have related? The only connection, I understand, that she had with that affair, is that she was a passenger in this car the day you went to get the tires?

A. Yes.

Q. That is all the connection she had, she just rode along to get the tires? A. Yes.

(Testimony of William Radcliff.)

Q. That is all the connection she had? She just rode along when you went out in the car to get the tires and to get the shoes? A. Yes, sir.

Q. That is all Ethel Hanson had to do with it. She was the wife of Herbert William Hanson. William Ratcliff is yourself. With James Francis Mellison, you never had any agreement of any kind?

A. No, sir.

Q. All you know about Mellison is, when Fowler came down the road in an automobile that had some tires, Mellison was with him, isn't that true?

A. A man unknown to me.

Q. Afterwards you learned him to be Mellison?

A. Yes, sir. [81]

Q. After he was arrested. You never knew Millison before he was arrested? A. No, sir.

Q. Consequently you never had any dealings or agreement or conversations relating to theft with Millison? A. No.

Q. And Thomas Singer. I take it you never heard of Thomas Singer in your life until you met him here in this court. You never had any dealings with Thomas Singer? A. No, sir.

Q. He was a party to no crime of conspiracy which you were ever in. And David Jones, he was in this one that you are in? A. Yes, sir.

Q. Creed Lane, you never had anything to do with him? A. No, sir.

Q. And Trepanier, all you had to do with him was that you told him you needed an electric drill to do some work with, and he brought an electric drill down

(Testimony of William Radcliff.)

to your house; isn't that true? A. Yes, sir.

Q. You and he never stole the drill together?

A. No, sir.

Q. You had no agreement to steal it? A. No.

Q. You had personally nothing to do with the drill except using it?

A. I did not use it; I could not use it.

Q. Trepanier knew; he was on the train that you were running a couple of times? A. Yes, sir.

Q. Those times, nothing was stolen; is that right?

A. Yes, sir.

Q. Nothing was stolen then? A. No. [82]

Q. As I understand, Mrs. J. A. Lewis,—stand up, Mrs. Lewis,—that is Mrs. Lewis? A. Yes, sir.

Q. She is the owner of the St. Elmo Hotel in Auburn? A. Yes, sir.

Q. That is the largest hotel in Auburn, is it?

A. Yes.

Q. It is a hotel of fifty or sixty rooms. Auburn is a railroad town? A. Yes, sir.

Q. The population, or the chief occupation of the majority of the population is railroading, isn't it?

A. Yes, sir.

Q. The railroad group makes up the great part of the population. The occupants of practically all the hotels, including the St. Elmo Hotel, are railroad employees, aren't they? A. Yes, sir.

Q. And Fowler lives at the St. Elmo Hotel; isn't that true? A. That I don't know.

Q. You never had any agreement with Mrs. Lewis to rob any box-cars, and steal anything, in inter-

(Testimony of William Radcliff.)

state commerce? A. No, sir.

Q. You never had any transaction with her in regard to stolen property or anything like that?

A. No, sir.

Q. As I understand, all you know about Mrs. Lewis—the only dealings she had with you, you went to her hotel one night and asked where Fowler was? A. Yes.

Q. And she told you that Fowler had gone up on a hill to get some tires? A. Yes, sir.

Q. And you told her that you were selling some shoes, did you? A. Yes, sir. [83]

Q. She asked you to whom you were selling the shoes? A. Yes.

Q. And you told her to a man named Ayers; is that it?

A. A man named Ayers was the salesman and the purchaser was Rogers in Renton.

Q. She had nothing to do with either Ayers or Rogers so far as you know?

A. Absolutely nothing.

Q. And absolutely all she had to do with you was, she came to the door of the hotel when you inquired for Fowler, and said she thought Fowler was up on the hill getting some tires; is that right? A. Yes.

Q. Now, this fellow Fowler, he runs a stage or jitney, up here in Auburn; that is his occupation?

A. I don't know.

Q. You don't know that he does that? A. No.

Q. All you know about Fowler that night is that he came along the road with an automobile in which

(Testimony of William Radcliff.)

the tires were? A. Yes, sir.

Q. You had nothing to do with those tires?

A. No, sir.

Q. You were not connected with those tires any more than I am connected with them?

A. No, sir.

Q. You never stole them, never conspired to steal them; never agreed to steal them with anyone, nobody agreed to steal them with you, or to have anything to do with those tires so far as you are concerned? Is that right? A. That is right.

Q. The conspiracy that you are in included only you, and David Jones and Mr. Hanson; is that right? A. Yes, sir. [84]

No terms were made to me for pleading guilty. I wanted the drill because I was doing some work on a patent car lock,—so that the seal could be abolished and a lock used. Hanson, Jones and myself are equally guilty of stealing shoes and matting. I was the conductor. Jones was the middleman and Hanson was the rear man. The head brakeman stays on the engine and handles the head end of the train; to head the train in and out of sidings. He doesn't attend to hot-boxes or broken bars unless it is close to the end of a long train. The head brakeman takes his orders from the engineer when he is on the train, and all the brakemen are responsible to the conductor.

Lozby was the engineer on the train on the 20th of March. There was a pilot on the train from Leslie to Auburn; his name was Hutchinson; there

(Testimony of William Radcliff.)

was no one else on the train. I walked down the left side of the train when it stopped in a bend in the track, and Jones and Hanson walked down the right side. I went to the rear of the train; Goldman was on the engine; Hutchinson stayed on the caboose. I later went down into the salal brush looking for the shoes, together with Payne, Campbell and Lovell.

Testimony of Roy Ayers, for the Government.

Direct Examination.

I am thirty-two years old. I went to Auburn in November, 1919, and engaged in and carried on a garage business; I was in business there three months; from the time I went to Auburn in November, I was in the employ of the N. P. Railroad, as special investigator, for the purpose of looking up these box-car thieves, so called. I know the defendant Lemuel S. Fowler. I don't know Bellamy, White, Paris. I do not know Thomas E. Jones, Ed Bourdell or Sarah Jones, or Joe Vargus. I know Herbert William Hanson, and Mrs. Hanson, and William Radcliff. I know the defendants J. F. Mellison, David Jones and Creed Lane. I do not know the defendant Thomas Singer or George Trepanier. I know Mrs. J. A. Lewis.

Q. Now, while you were in the garage business at Auburn, did you [85] have negotiations and dealings with these defendants, or any of them, concerning stolen property? A. Yes, sir.

Q. Now, begin at the beginning; who was the first

(Testimony of Roy Ayers.)

defendant, and what was it about, and about when?

Mr. DORE.—Now, your Honor, I object on the ground that it is incompetent, irrelevant and immaterial for this reason: Mr. Ratcliff has pleaded guilty to three conspiracies. He said that there was no one in those conspiracies except Jones and Hanson. The Government must try one single criminal agreement here, or at least the three criminal agreements which they have elected by Ratcliff's testimony to bind themselves before the doings of the other defendants become admissible with this great mass of stuff that is here. The Government must first connect these defendants with Ratcliff and with this conspiracy that, according to their own testimony at this time, there was no one in except Mrs. Hanson, Mr. Hanson and Dave Jones. You can't try a score of conspiracies, or a score of groups, or a score of different crimes here. It is true the agreement may be single, and the object of it may be multiform, that is true, but still before testimony as to what other defendants did or said to this man, or what dealings he had with him, they must be brought within the scope of this conspiracy. Now, to narrow this case, we demand at this time, or at least to save time, the Government state to the Court what conspiracy they are trying here, and who they intend to prove the conspirators are, and they be permitted to introduce no testimony against any defendant except such as they may state to the Court their proof will show to be members of the conspiracy that

(Testimony of Roy Ayers.)

Ratcliff has already testified to.

The COURT.—I cannot rule of what the evidence shows in advance of hearing the evidence. Objection overruled. [86]

The first defendant was Hanson. About the 15th of November last he came into the garage to have some work done on his car. He had two new rear tires on the machine, and he wanted me to change the tires around so that the numbers would be on the inside, that they were stolen tires; I made the change for him; he asked me if I could use some shoes; I told him I could; he brought me up a pair as a sample; I tried them on in the presence of a man named Corly or Coby, and Scott. I kept the shoes around the shop; Hanson said he had thirty-six tires that he would sell me at \$10.00 a tire; I took the thirty-six. I agreed to take the tires, but he could not get them to me for some reason, as they were twenty or thirty miles this side of Easton, and he couldn't get them down to Auburn and they were delayed in that way.

On March 27th I met Scott; he was a conductor on the Northern Pacific. On March 27th I went down to Hanson's house; Mrs. Hanson was there; I talked to Hanson about some shoes he had out on the road at the 91 Mile Post. I told him I had a conversation with "Slim" Fowler, and Fowler was going to sell me the twelve tires that night. On March 27th I had a conversation with Fowler about the tires; he said they were all large tires, 35, 36, 4½ or something like that.

(Testimony of Roy Ayers.)

Mr. DORE.—I object to this testimony and move that it be stricken, as the testimony shows at this time Fowler was not a member of the conspiracy that Ratcliff has testified to.

The COURT.—The objection is overruled and the motion denied.

Fowler told he that the tires were shady and I would have to get them at night. I told him I had a good fence over in Renton, to whom I could dispose of the tires; I told him to meet me there at 10 or 11 o'clock, some time after dark, and we would go and get the tires and shoes and deliver them all at one time. Hanson took me down to Ratcliff's house and introduced me to Ratcliff; then Ratcliff and Hanson and Mrs. Hanson and I went out in my machine and Hanson's machine to get the shoes. We went on the Maple Valley road; it is about two miles off the highway, and left the cars thirty feet off the track, walked up to the 91 Mile Post, which is about half a mile, I should judge, from the crossing. We hunted around [87] the woods for some time before we come across this one box of shoes; we couldn't find the others; there was supposed to be a sack and another box of freight there. I found one box of Peters shoes and Hanson found the other one. I can identify Government's Exhibits 4 and 3. We carried the shoes down the track to the cars. I put them in my machine and rode back to Auburn. There were two machines, one carried Ratcliff and myself and the shoes, and the other carried Mr. and Mrs. Hanson. Hanson said he

(Testimony of Roy Ayers.)

had to go to work in the morning and would not go to Renton with me; but Ratcliff would go down and collect the money; Hanson then went home.

I told *than* that I agreed with this "fence" at Renton to pay \$2.00 a pair for the shoes; I was to receive a commission. We got into Auburn about twelve o'clock. Fowler was to meet me in Auburn, but I could not find him. So I rode out to the highway, that is, the Tacoma-Seattle Highway from Auburn, and I was to blink my lights at a certain point to let Fowler know I was on the highway. I waited there for some time and he didn't appear. I returned to Auburn and met him in front of the St. Elmo Hotel. He said he had unloaded the tires, that he thought I wasn't coming back, I was so long. I told him to go and load up again and we would start for Renton; so Fowler went and loaded up; he loaded up his machine and I waited for him at the highway; he was gone half an hour or so, and he came back with a load of tires, and we then went to Renton. We got to Renton *and* one or one-thirty, and there met the deputies. When the deputies arrived at the garage, I drove my machine in the garage and unloaded it; unloaded the shoes I had in the machine. I backed out on to the alley, and Fowler drove his machine in and unloaded the tires, and while he unloaded them—I don't know what happened after that; I left the premises.

I identify these tires as the ones that were in Fowler's car.

Mellison, on the night of March 27th, told me he

(Testimony of Roy Ayers.)

had an interest in the tires. He was in Fowler's machine when I saw Fowler in Auburn, and he told me he had unloaded the tires, and he went with Fowler to load them up again and went to Renton with Fowler. [88] I cannot recognize Mellison.

Cross-examination by Mr. DORE.

I knew "Stew" Campbell, one of the deputy sheriffs at Renton, and I knew him pretty well. I have been in the employ of the railroad since November. Campbell arrested me for having stolen automobiles in my possession; I don't remember when I was arrested. The Northern Pacific bought the garage that I had at Auburn; it was merely a blind. I walked from the garage at Renton and Campbell shot at me.

I learned that Fowler had tires to sell through a conversation I had with Scott, a railway conductor. After Scott told me that Fowler had some tires to sell, Fowler came to me and told me that he had thirteen tires. I told him that I had a buyer at Renton who would buy them. I told Payne about Fowler and the tires on March 27th. Fowler was just an addition to the party.

Q. You picked him up accidentally?

A. Just accidentally.

Testimony of E. J. Hughes, for the Government.

My name is E. J. Hughes, and I am a deputy Sheriff of King County, Washington, and I have been for nearly four years. I saw Ayers and others at Renton on the night of March 27th and the early morning of March 28th last.

On March 23d I met Mr. Ayers; he was introduced to me by Payne, a special agent for the Northern Pacific. I went to Renton on March 27th; I was there from the 25th to the morning of the 28th. I rented Edwards' garage. I was in the garage all day of the 27th, and up to about 10:30 that evening, when I went home to bed. A little after two o'clock in the morning I had a call over the telephone to Seattle, and two other deputy sheriffs, Campbell and Lovell, came out there, and shortly after I opened the garage. I went in and turned the lights all on, and Ayers came in through the front door. Lovell went into a back room and kept in the dark. While Ayers was driving his car in, Deputy Sheriff Campbell [89] came in through the front door. Ayers' car was loaded with shoes. I had arranged prior to this with Ayers to receive these shoes and some automobile tires, which I was given to understand was stolen goods from the Northern Pacific Railroad. The shoes were unloaded. Ayers said to me, "Now, you understand you are to pay three dollars a pair for these shoes straight through." I said, "Yes, I understand that." He said, "Also twelve dollars a piece for the tires straight through." I said,

(Testimony of E. J. Hughes.)

“Yes, but I want to know how many pairs of shoes I am getting; I do not want to pay for something that I am not getting; I want a count on those shoes.”

After the shoes were unloaded from the machine driven in by Ayers, Ratcliff proceeded to count the shoes. I did not stay with them because I went to assist Ayers to back his machine out of the garage, and then Fowler got in his car and drove that in, and the tires were unloaded. Ayers backed his machine out through the alley into the street. After they had been all unloaded, I made some remark about the tubes that were to be brought to fit these tires; they told me there were no tubes to be brought with those tires, and at that time I drew my gun and told them to stick their hands in the air. Campbell was in the rear, and just about that time there was an alarm at the rear door, and Deputy Sheriff Campbell went to answer the alarm at the door. I presume it was Ayers at the door; some shooting occurred on the outside; I don't know why it was done. Fowler had an automatic revolver; it was a 32 or a 38. Deputy Sheriff Lovell took it away from him. I arrested Ratcliff, Fowler and Mellison and brought them to the County Jail; the goods were also brought to the County Jail. I could not identify the tires; I did not take any particular notice of them, other than that they were extra large cord tires. There was one box of ladies' canvas shoes and a box of children's shoes; they were light colored leather.

(Testimony of E. J. Hughes.)

I saw Hanson on March 28th at his house in Auburn. Deputy Sheriffs Campbell, Lovell and myself went to the house; it was probably between five and six o'clock in the morning. We placed Hanson and his wife under arrest and brought them to the County Jail. I found a tire in the house and also some liquor. I found only one tire; it was a new tire, the wrapping was still on it. [89½]

Cross-examination by Mr. DORE.

The first conversation I had with Ayers was on March 25th. I knew his name was Ayers. I knew all these facts on April 6. I testified before U. S. Commissioner McClelland on April 6th that Ayers' name was Morris or Morrison. I did not tell the commissioner that he had been introduced to me by the name of Ayers; I told the commissioner that he got away. I cannot explain why I so testified before the commissioner.

It was on March 25th that Ayers told me about the shoes and the tires; he told me at that time the tires were large-sized tires. Fowler had a gun in his pocket, and it was taken out of his pocket by Deputy Sheriff Lovell; it was in the outside overcoat pocket on the left-hand side. I had no conversation with Mellison; I do not recall what Fowler said in the garage.

I told the commissioner I made arrangements to buy those tires off a man who gave his name as Fred Morris, and also the shoes. Fowler, Millison

(Testimony of Stewart Campbell.)

and Radcliff were the only ones of the defendants who were in the garage that night; Ayers was also there.

Testimony of Stewart Campbell, for the Government.

Direct Examination.

I am a deputy sheriff and have been for six or seven years. About two o'clock in the morning of Sunday, March 28th, I was called from my home to go to Renton; I went to a garage in Renton. Fowler, Millison and Ratcliff were in the garage, as were Deputy Sheriffs Lovell and Hughes; I went into the back door of the garage. One car backed out and another drove in. I saw a couple of boxes of shoes standing there in the garage; the car that Fowler drove in had tires in it. Deputy Sheriff Lovell came out from behind a partition and Hughes stuck them up and took the guns away from them. Ayers went away as arranged.

Cross-examination by Mr. DORE.

I have known Ayers four or five months. I did not know who it was that shot at me; the man who did the shooting was the man running; I afterwards learned that the man who was running was Ayers. I knew it was arranged for [90] Ayers to get away; it was not arranged for him to shoot at anybody. I knew Ayers by a couple of other names. I arrested him in Auburn a couple of months ago for allowing stolen cars to be in his garage. At that time Scott was in jail in Bellingham. Scott was the man I wanted. I testified before the com-

(Testimony of N. L. Lovell.)

missioner on April 6th in this case. I testified at that time that I did not know Ayers' name; that he ran away and took two shots at me.

Testimony of N. L. Lovell, for the Government.

Direct Examination.

On March 28th I was, *I was* deputy sheriff of King County, and have been since August of last year. I saw Fowler, Ratcliff and Millison and a fellow by the name of Ayers in Renton on the morning of the 28th. Ayers drove a car into the garage that had shoes in it; Ratcliff was in the car with him; the shoes were unloaded in the garage, and he backed the machine out, and Fowler drove his machine in, containing tires, and unloaded them; after the goods were unloaded, Deputy Sheriff Hughes told them who he was, that they were under arrest, and I came out and assisted in making the arrest of Ratcliff, Millison and Fowler.

Exhibits 3 and 4 are the shoes that I saw in the garage that night. The tires marked \$8 for identification are the tires that were there. I heard some shooting outside, seven or eight shots were fired. I took an automatic revolver away from Fowler; it was a 32-caliber; it's a Colt's. I took the gun from Fowler's left-hand overcoat pocket; it was loaded.

Cross-examination by Mr. DORE.

Campbell and Ayers were the two men that were outside the garage at the time of the shooting. I

(Testimony of N. L. Lovell.)

knew on March 28th that Ayers was a decoy—that is, that he was working for Payne. I knew that his going away that night was part of a plan. I testified on April 6th, before the commissioner, that the man now called Ayers made his escape. I testified that I did not know Ayers. This was not the truth. I falsified so as to be able to use Ayers again. [91]

Testimony of Clifford W. Scott, for the Government.

Direct Examination.

I have been a conductor for the Northern Pacific Railway for six or seven years, running from Auburn to Ellensburg, on the Seattle Division. Mr. Trepanier and Mr. Hanson were once members of my train crew. I had a conversation with Hanson in the garage at Auburn in October or November, 1919, a garage conducted by Ayers. Hanson drove up in an automobile and gave Ayers some shoes; he told Ayers to take them inside, see if he had some way of disposing of them. Hanson said he wanted some tires changed; told Ayers he wanted some numbers on some tires changed; take the number off one tire and put it on another; vulcanize them on. He said the tires came out of a Northern Pacific train; he said they were stolen goods.

I know this defendant Trepanier; at one time he was a member of my crew running between Auburn and Ellensburg. I set a train out at Lester, between Auburn and Ellensburg; Lester is about forty-two miles east of Auburn, on the west

(Testimony of Clifford W. Scott.)

side of the Cascades. I set a train out and went back to Ellensburg with the engine; I was away from the train about seventeen hours; when I left the cars they were in good condition, and when I returned, one had been broken open and pilfered; in the door of the car there were a couple of electric drills; Trepanier stole one of them and I stole the other.

I have known Fowler about a year. On March 17th I met him. About March 17th of this year I met him on the main street in Auburn. I asked him if he had some tires he wanted to get rid of and he said he did; he wanted to know if I had a place to get rid of them; I told him I did; he wanted to know how much he could get for them, and I told him I didn't know. He went and got a price list and we talked about the price list; we separated, and afterwards met Mr. Ayers, and I had no further conversation with him that I know of.

I had a conversation with Mrs. Lewis; she runs the St. Elmo Hotel at Auburn; this hotel is patronized by railroad men. I had the conversation about January 1st, this year, in her apartment at the St. Elmo Hotel. She said she had some silver that she had got from a trainman that had been taken out of the trains, out of box-cars. [92]

Cross-examination by Mr. DORE.

About the fall of 1918 I stole the air-drill, and Trepanier stole another. The stealing of these air-drills from the train at Lester was just a little pri-

(Testimony of Clifford W. Scott.)

vate agreement between Trepanier and myself. No other defendant in this case had anything to do with it. I do not know who broke the seal on the car. It was broken when Trepanier and I found it. Hanson was not a member of the crew at the time the drills were stolen. I loaned the drill I stole to a fellow, and I never got it back. The only person I was ever on a thieving expedition with was Trepanier. I am still in the employ of the railroad.

I am acquainted with Ayers. I was arrested in Bellingham; I was convicted of having a wrong automobile license. After Fowler told me about the tires, I approached Ayers; I believe it was Saturday afternoon; I was not working as a detective. I approached Ayers in good faith; I knew Ayers could get rid of stolen property. George Colby was in the garage at Auburn when I heard the conversation between Ayers and Hanson.

Redirect Examination by Mr. SAUNDERS.

Hanson wanted at one time the tires taken off the rear wheels and put in front, and *vice versa*, and another time he wanted the numbers of the tires changed, vulcanized around.

Testimony of George M. Payne, for the Government.

Direct Examination.

I am one of the special agents of the Northern Pacific, living in Seattle and working along the Western Division, and have been such special agent for about fourteen years. I was in Edwards' gar-

(Testimony of George M. Payne.)

age all day on the 27th of March last. On the 25th of March Mr. Hughes, the deputy sheriff, and I drove from Renton and saw Mr. Edwards and arranged with him for the use of his garage. On the night of the 27th I was at the garage, together with Winquist, Hughes, Mr. Ramage, Mr. Lovell and Mr. Campbell. I was not there when the auto arrived with the goods. I had been gone four or five hours. Winquist inventoried the merchandise that was brought to the garage. I saw Ratcliff and Fowler the day after they were [93] arrested. I know Ayers; he was working for me.

Cross-examination by Mr. DORE.

Ayers had been in my employ about six months; he was paid by special voucher, \$150.00 a month and expenses; his salary and expenses amounted to about \$350.00. I did not buy the garage for Ayers, at Auburn; I had no interest in it; he owned it himself as far as I know.

Testimony of John Winquist, for the Government.

Direct Examination.

I am a special agent of the Northern Pacific Railroad Company. I have been a special agent for three years. On February 17th last I visited the home of Creed Lane, accompanied by Deputy Sheriffs Lovell, Connors, Brown, Ramage, George Payne, special agent. We found general merchandise of every description, such as clothing, lining, satin in bolts, cigarettes, overalls, tobacco. I have a list of the things found at Creed Lane's place.

(Testimony of John Winquist.)

All these things, except these tires and this gun. I have in the pile here all of the goods found at Creed Lane's place.

Goods are here offered in evidence as Government Exhibit 10.

I visited the home of T. E. Jones on March 19th last in Auburn, and was accompanied by Marshal Toby and George Payne, special agent. We got some tools marked "N. P. Railway Company" and some tablecloths marked "G. N. Railway." That is all I personally found at the time. There were some other goods found, but I cannot remember what they were.

I visited the home of Bellamy on March 19th last, accompanied by Deputy Marshal Ed. Toby I found one brand new overcoat hidden under a mattress on the springs of a davenport, a couch. We got two boxes of Roi Tan cigars hidden in a drawer of the buffet. I can identify the overcoat.

Overcoat admitted as Government's Exhibit 11.
[94]

On April 12th last, in company with Deputy Marshal Ed Toby I visited the place of business of defendant Thomas Singer, in Seattle, and we found one overcoat and two suits of clothing.

Overcoat and two suits of clothing were received and admitted in evidence and marked Government's Exhibit 12, 12A and 12B, respectively.

Cross-examination by Mr. GORDON (Mr.
TUCKER.)

On March 26th we arrested Thomas E. Jones.

(Testimony of John Winkvist.)

Thomas Singer's place of business is #314 Denny Building, Seattle Washington; he conducts a hair-dressing business; it is up on the third floor, and occupies a space probably sixty feet in length. I found the overcoat hanging in the main office, on a clothes-rack. Mr. Toby found the two suits of clothing. I was not present at the time he found them; I was in another room; they were wrapped up in paper.

In Bellamy's house there was also a hair-brush of the Pullman Company. I understood that at the time of the search of Bellamy's house, Bellamy was in California; he was arrested in Los Angeles; at the time of the search he had been gone from the State about one and a half months.

Redirect Examination (Mr. CONWAY).

Bellamy's house is at 111 Brandon Street, Auburn.

Testimony of George M. Payne, for the Government.

I visited the Northern Pacific Caboose #1859, and made a search of it on March 26th last. I was accompanied by J. R. Young; at that time the caboose was in charge of Conductor Thomas E. Jones. I found in one locker some cutlery marked "Russell Cutlery Company," bone-handled steak knives, a butcher's steel; we found some clothing with the tags removed, a brand new suit; and an overseas bag marked with the name of the defendant Bourdell, in the locker where the cutlery was found. We found coffee, several cans of coffee and some coffee in bulk, in a two-quart jar. It was

(Testimony of George M. Payne.)

Hill Bros. coffee in cans, if I remember right. We found shoes with identification marks destroyed. We found tools which belong [95] in the car, such as are supplied to the caboose for use on the road. The goods were found in the lockers securely locked with Yale locks, secured by staples. We opened those three on the inside of the car.

The record shows that Bourdell was employed on the train at that time; here is the time-book, a copy of the time-slips that are turned in by Mr. Jones. That is the record regularly kept by the conductors of such trains. The train crew of the train of which this caboose was a part at the time the search was made was composed of T. E. Jones, Louis Trepanier, W. F. Garrison and Edward Bourdell. All the stuff that lies there on the floor is stuff that was found in the caboose.

The articles were received in evidence and marked Plaintiff's Exhibit 13.

I visited the St. Elmo Hotel on the 30th day of March, accompanied by Deputy Sheriffs Lovell and Ramage, and Mr. Bush of the Northern Pacific. In the kitchen of the St. Elmo Hotel, among some silverware, I found six identical steak knives marked "Russell Cutlery Company," which are identical with the ones found in the caboose. One of the knives had a little grease on it; they were in the kitchen, of the St. Elmo Hotel, on the dining-table.

Six knives offered in evidence received and marked Plaintiff's Exhibit 14.

I had a conversation with Mrs. Lewis and asked

(Testimony of George M. Payne.)

her where the knives came from and she said that she found them in a room vacated by two transients.

Cross-examination by Mr. GORDON.

I only found that one time-book in the caboose. I do not know of my own knowledge whether the entries in the book are correct or not.

The lockers from which the goods were taken in the caboose were part of the train equipment; we found the goods in two different lockers; there were two large lockers on one side of the caboose, and I believe there was a small locker where the canned goods or eatables were. [96] There was nothing to indicate to which man the locker belonged. We found the clothing and part of the goods in one locker; the time-book was in the locker that we found the clothing in, and the cutlery was in a locker where the overseas bag was; we found some goods in different parts of the caboose. I do not know of my own knowledge when the caboose got into the yard, and I do not know of my own personal knowledge how long the caboose had been in the yard before it was searched. Some of the train crews do cooking in the caboose.

Redirect Examination (Mr. CONWAY).

The overseas bag looks the same as when I found it. Everything now in the bag was in it when I found it in the caboose.

Testimony of J. C. Connor, for the Government.

Direct Examination.

I am a deputy sheriff of King County, Washington, and have been for two and a half years. I visited the Lloyds Hotel in Auburn on the 26th of February last, accompanied by Deputy Sheriffs Lovell and Ramage and Irving Brown. The lady we talked to at the Lloyds Hotel said her name was Jones. We searched the room occupied by the landlady, and the front room. As near as I can remember, in a part of the house occupied by the landlady there was two suitcases found; and we found some shoes, coffee, two or three fruit ars and some other stuff there. I am not positive that I could identify the grip.

Testimony of N. L. Lovell, for the Government.

Direct Examination.

I paid a visit to the Lloyds Hotel on February 26th last, accompanied by Deputy Sheriffs Connor, Irving Brown and Earl Ramage. I had a search-warrant which called for a search of the premises of the defendant Bourdell at the Lloyd Hotel. I found in the landlady's room, the office part, two grips. I am sure that is the grip which I found in the landlady's room. I think the razor strops were in another room; I think the shoes also were in another room. Mr. Payne made endorsements on the tags. I cannot testify that the [97] razor strops were found in the same room or in this grip. The padlock, neckties and bottles were in a trunk

(Testimony of N. L. Lovell.)

in another room; the shirts were in the leather grip. I saw the other grip first in the landlady's room; the shoes were in the grip; those hats was found in a trunk, but I won't be sure, but I think it was Room 31, in the front of the building, along with the razor strops. The shirts were with the hats in Room 31; the bedspreads were in the landlady's room in the suitcase.

The lady that said she was the landlady said her husband had been in the shoe business, had a store or something, and that was something she had left over when he went out of business, or something to that effect. She claimed that one of those grips belonged to another party—White, I believe the name was.

Cross-examination.

I won't say positively that the shirts was in the suitcase. I think they were in Room 31. The cans of coffee were in the suitcase. I believe that is all I could positively identify.

Copy of search-warrant marked for identification as Defendant Bourdell's Exhibit "A."

Testimony of Irving Brown, for the Government.

My name is Irving Brown, and I visited the Lloyd Hotel at Auburn on February 26th last. I went into Mrs. Jones' room. I searched the dresser and bureau drawers, and found a large quantity of bolted drygoods; she said they formerly belonged to her husband, who had a store at Auburn. The only thing I took out of the dresser was a pair of

(Testimony of Irving Brown.)

brown ladies' shoes; there was two jars of jam in the grip, which had been broken. The grip was right as you come in the door, on the left-hand side, underneath the cupboard. There was a bed in the room and a dresser, and it was a living-room, cooking-stove and all. She said she obtained all the goods from her husband's store in Auburn about two years previous. She said her husband had given her the shoes. The shirts were in the leather suitcase. There were two cans of coffee and two jars of jam and a couple of pairs of shoes in one of the grips, and the other grip contained the rest of the stuff. I just opened it and asked her who the stuff belonged to. [98] She said she didn't know, they were left there by some roomer. I asked her if she knew who the roomer was and she said she did not. I asked who the party was that had the name on the label, and she said she did not know who it was. The men's shoes were found in the room, I believe, of Mr. White and Bourdell; the razor strops and neckties were found in White's and Bourdell's room.

Suitcases received in evidence and marked Plaintiff's Exhibit 16.

Redirect Examination.

I went to Bellamy's house on the 26th of February; we found so much stuff that it would take a diary to keep a record of it; overalls we found in various cupboards; then we found some socks, two different brands, and some white engineer's linen caps, or coal caps, whatever you call them.

(Testimony of Irving Brown.)

I can identify this bundle of overalls. The socks were found in a trunk upstairs. I believe probably one of the other deputies found the shoes. I am sure it was in Bellamy's house where we found all this stuff.

Cross-examination.

I went to Bellamy's house on the 26th of February; I don't know, it was February or March. Mr. Connor had a search-warrant. I found the socks and caps and combs and the pair of shoes upstairs in a trunk in the attic. Bellamy was not there, but we saw Mrs. Bellamy. There was no lady at the house who claimed to me that she was Mrs. Bellamy.

Further Examination by the Government.

I visited the house of Creed Lane on the 17th of February last. As far as I remember we found a lot of overcoats, a lot of overalls; there was two hand-bags that I found myself, off in a little room used for preserves; there was a lot of jam and canned milk around there; I found two black hand-grips and they contained overalls and shoes; there was also a gun found in the house, a boy's suit, a lot of dry bolted goods and phonograph records.

I can identify the boy's suit, the bolted goods, the two black grips and the shoes; they seemed to be everywhere,—under the beds, in cupboards and on top. [99]

Testimony of Mrs. Muza Ratcliff, for the Government.

I am the wife of the witness Ratcliff; I have been married eleven years; I have been living in Auburn four years. Engineer Forner lived next door; he was in the employ of the Northern Pacific; we are living in his house, 103, now. On March 27th last the defendant Hanson came to my house; he came three times that evening; the first time he asked for my husband; I told him he was not at home; he came back the second time about twenty minutes after and my husband had not returned; he told me that Mr. Ratcliff and he were going out to get some shoes; I told him it was too late; that I didn't think Mr. Ratcliff [100] would go. He came back the third time, between eight and nine, and met Mr. Ratcliff as he drove into the alley just at the gate, and they came into the house together, and Mr. Ratcliff said he was going with him and Hanson waited in the kitchen and talked to me. Mrs. Hanson sat out in the car. Mr. Ratcliff went and changed his clothes and went with him. Mr. Hanson said he had a sale for the shoes and they would make about two hundred and fifty dollars on the deal. I asked Mr. Ratcliff not to go, and he said, "I will go, but this will be the last time." I asked him why he would do such things, with Hanson; I asked if it was because the way—that Hanson had a car that he would do those things. I did not see my husband again that night. When I saw him again it was in the County Jail Monday morning.

(Testimony of Mrs. Muza Ratcliff.)

Mr. Hanson brought some matting to our house in his car about daybreak, about the first or third of March. Both rolls were brought to our house by the defendant Hanson about three o'clock in the morning. I was getting my husband's breakfast and he told me he expected Hanson; if I heard him toot the horn to tell him. About daybreak Hanson came through the alley and tooted the horn and Mr. Ratcliff went out; I lit the light on the porch and I saw Mr. Hanson put the two rolls of matting into the side of the yard; Mr. Ratcliff brought the matting into the house.

No cross-examination.

Redirect Examination.

I know Mrs. J. A. Lewis. I had a conversation with her. I went to her house four different times after Mr. Ratcliff's arrest. The first two times I did not find her at home. I called on her to find out what she might know about Mr. Ratcliff's arrest, and she told me that Mr. Ratcliff called there that night between twelve and one, and asked for Slim. That was Saturday night, March 27th. She said Mr. Ratcliff went there and told her he wanted to see Fowler; that he had a deal on with a man for shoes, and she asked Mr. Ratcliff if he knew the man he had the deal with, and he said he didn't know him, but he thought he was all right; she told me if she had looked out of the window and seen who the man was, she would have known he was not all right. [101] I went to see Mrs. Lewis about the first of the following month to see about

(Testimony of Mrs. Muza Ratcliff.)

getting Mr. Ratcliff's bond, and she told me that Mr. Ratcliff had squealed; and that she had seventy-five hundred dollars up now, and she would not have anything to do with Ratcliff; that Ratcliff had squealed on the bunch. She told me not to be angry with her, or the bunch, that he had squealed, and they were going to frame up against him, and that he would get ten years, and for me not to be angry with them after this trial.

Cross-examination.

The second time I went to see Mrs. Lewis was about May 1st. She told me he had come there and asked for Fowler. I roomed at the St. Elmo Hotel four years ago. I have never had any trouble with Mrs. Lewis. I went to Mrs. Lewis and asked her if it was a fact, while I was a guest at the hotel, my husband, with another woman named Ratcliff, lived at the hotel. Mrs. Lewis asked me if my husband was supporting me. I said yes. She said if Mr. Ratcliff was supporting me and I had a family, I had better forget it, the story of him living with another woman in her hotel. I found that Mrs. Lewis told the truth. I did not go back and tell Mrs. Lewis she had lied about me. Mrs. Lewis did not admit that she had lied to me. I did not go to Mrs. Lewis and say to her, "You own a big hotel, you have a lot of money, you have influence with the bankers here, and they have influence with Mr. Heister; you go to him and get him to drop this matter about finding stolen prop-

(Testimony of Mrs. Muza Ratcliff.)

erty." I never was in Mrs. Lewis' from the first time until this other time.

I don't remember speaking to Mrs. Lewis about diamonds stolen from the Auburn postoffice. The postmaster gave my little boy a package; it was on a Saturday night. I don't know whether it was a registered or insured package, but it was either—Mr. Payne, the postmaster, told me afterwards—and I gave him money to buy some stamps, and mail a letter; the child is only eight years old. He put the package down behind him on the desk and stamped the letters, and when he turned around the package was gone. He came home and I went [102] back with him, and we couldn't find the package. Monday morning Mr. Ratcliff and I went down to the postoffice to inquire if the package had been left in the window. I didn't know they were diamonds. That was the investigation that the postoffice authorities were *carry* on that I told Mrs. Lewis about. I went to Mr. Payne, the postmaster at that time, and told him that maybe it was some package of mine that was lost; then Mr. Payne told me it was a very valuable package that was lost, that it didn't belong to me, and must have belonged to that other Ratcliff; that it was diamonds valued at a thousand dollars. I did not tell Mrs. Lewis that I had schooled the boy to say his name was Hall. I went to her house because I wanted to know why my husband was arrested. I heard Fowler was arrested with my husband at the time, and I knew she would know of Fowler, because he

(Testimony of Mrs. Muza Ratcliff.)

was living in her house; she told me they were all arrested on conspiracy. She told me that if she had looked out of the window and found my husband was with a thief like Ayers, she would have warned him. I did not go to Mrs. Lewis and tell her my husband was in trouble because he had torn the American flag off the engine in Everett during the war. I did not know my husband got a letter from Judge Lawrence. I was not angry with Mrs. Lewis for refusing to go my husband's bail.

Testimony of J. M. Clark, for the Government.

Direct Examination.

My name is J. M. Clark. I am in business here with Thomas Singer, Incorporated. We are partners and have been since the 20th of August last year. We conduct a hair goods and beauty parlor. Some time in February I had a conversation with Singer about these goods. On that date Bourdell was in the store. Bourdell wears a toupee. On that date Singer called me into the office and Bourdell and he were there, and they had some shoes there. Singer insisted on me trying on some shoes. I said I didn't want any shoes, and he says, "Try these on and see if they fit you"; so I tried on one shoe. Of course, it did not fit—I knew that before I started. Singer asked Bourdell if he thought he [103] could get some others to fit, and Bourdell said he did not know, or wasn't sure, or something to that effect. I could not say for certain what Bourdell's answer was; I did not pay much atten-

(Testimony of J. M. Clark.)

tion. Later in the day, when Bourdell had gone out, I asked Mr. Singer when Bourdell was going to pay *that* this toupee of his. The price was thirty-five dollars. Singer said he had already paid for it. I said, "How do you figure that? I have no records of it having been paid for." Singer said, "Well I got an overcoat from him." I said, "You cannot collect anything of that kind." He said, "I have the overcoat from him. I said, "That is a funny way of straightening up a firm's account." He said, "You had a chance to have a pair of shoes and you turned it down; that is your fault." I said, "Who is this fellow Bourdell, anyway—who is he and what is he?" Singer told me he was a freight clerk in the railroad. I says, "How does he come to be peddling this stuff?" He says, "Well, he is no worse than the rest of them. All these railroad men, they get all kinds of stuff that they want; they can get it."

About two weeks later Bourdell came into the office one morning with a package wrapped up in newspaper. He asked me if Mr. Singer was in, and I told him no; it was then just a few minutes after nine o'clock. He asked me when he would be in and I said I didn't know; he was rather irregular; he might be in in five minutes and it might be an hour. So he left the package and went out. I saw Bourdell again that day. He went into the men's booth and opened up the package. The next time I saw Bourdell was on the street. On the night we came back from Commissioner McClel-

(Testimony of J. M. Clark.)

land's office, Singer told me that I did not see him putting the suit away, and that if I had kept out of this there would be nothing to it; that I had cooked his goose.

Cross-examination.

Singer took the clothes out of the newspaper and wrapped them up in plain paper; he took them back to the back of the shop and put them in an empty box; he put an empty box over that box. Bourdell was in the habit of coming in to get his hair cut; it is the habit of fellows we make wigs for to come up there and get their hair cut. I paid Tom Singer \$6,000 for a half interest in the business. [104]

Redirect Examination.

Tom Singer showed me the overcoat the day he got it. He said *it* got it at Hart, Schaffner & Marx.

Recross-examination.

I did not know at that time that he got it from Bourdell. He did not tell me at that time that he got it from Bourdell. He told me later that he got the coat and that I could not collect for the toupee.

Recross-examination.

Tom Singer did not tell me at the time where he got the overcoat.

Testimony of Mrs. E. B. Penny, for the Government.

My name is Mrs. E. B. Penny. I have been working about a year in Thomas H. Singer & Com-

(Testimony of Mrs. E. B. Penny.)

pany's place of business, as a hair-dresser. I have seen Mr. Bourdell in Singer & Company's place of business, #305 Denny Building. There was only once he brought in a package; it was wrapped up. He asked for Mr. Singer. Mr. Singer had an overcoat on and he came out and we all commented on it. We did not think it fit him across the shoulders. I told him he had better take it back to his tailor and have it fixed right. I asked him if that was the tailor, and he said no, Bourdell was his friend.

Cross-examination.

Mr. Bourdell went into the office and talked with Mr. Singer. Mr. Bourdell had a package with him. Mr. Singer told us that he had a new overcoat.

Exhibit 12 does not look like the coat. I do not think that Mr. Singer and Mr. Clark get along any too well. Mr. Singer never told me on any occasion that he had got the coat from Bourdell.

Testimony of I. B. Armstrong, for the Government.

My name is I. B. Armstrong. I have the Buster Brown Shoe Store here. The first time I saw Mr. Bourdell was five or six months ago. Mr. Singer came into my store several months ago, seven or eight months ago, with a view of renting [105] a portion of the store. He said he would like a chance of renting that when it was vacant; a little later I told Mr. Singer I thought the store would be vacant, and he looked it over, and he said he did not think he could use it, it was too small. Then he said, "Could you use some shoes if you could

(Testimony of I. B. Armstrong.)

get them cheap?" I said I didn't know. I would have to see them. He said, "I will have a man bring in some samples and you can look them over."

Several months after that, almost two months, they came in one morning with some samples of shoes. I looked them over and said that I could not use them; I handle the White House shoes. This man asked if I could get some White House shoes, could I use some of them, and I said I didn't know, to bring them in and I would look them over. They went out and I never saw them again. The White House brand is made in St. Louis, a man's shoe.

Cross-examination.

I do not know where Tom Singer got the shoes. Mr. Bourdell was not with Mr. Singer at the time Singer asked if I could use some shoes if I got them cheap. I had not seen Bourdell up to that time. Bourdell and Singer came into our store four or five months ago.

Testimony of John Winkvist, for the Government (Recalled.)

I went to Bellamy's house on March 19th last. I found letters, canceled checks and receipts for rent, if I remember right, signed by Mr. and Mrs. Bellamy; the letters were addressed to the Bellamys; some of the checks were signed by Mrs. Bellamy and the receipts were to Mr. and Mrs. Bellamy. The number of their house is 111 South Brannon Street, Auburn.

(Testimony of John Winquist.)

Cross-examination.

I do not know who wrote the letters and receipts.

The COURT.—In making an objection for one defendant, any defendant may have the benefit of it unless otherwise indicated. [106]

Redirect Examination.

I had a conversation with Thomas Singer on the 12th of April. Mr. Tobey showed the search-warrant; I went over to the rack, took the overcoat and asked if it belonged to him and he said yes. That is Government Exhibit 12. He said he got it at Hart, Schaffner & Marx Store on Second Avenue—Parger & Co. Then I took the coat and went down to the store for identification.

Cross-examination.

Mr. Singer said he bought it there three or four months prior to the date of his arrest.

Testimony of E. R. Tobey, for the Government.

I went with Mr. Winquist on March 19th to a certain house in Auburn, in my capacity as United States deputy marshal.

Witness excused to be recalled later.

**Testimony of John Winquist, for the Government
(Recalled).**

I did not know Bellamy personally at the time I searched his house. I did not know his handwriting. [107]

The following facts were proved by competent testimony and no objection was made to the intro-

(Testimony of John Winquist.)

duction of said testimony, except as hereinafter specifically may appear:

74 bundles, consisting of 294 tires, were shipped January 3d, 1920, by railroad, in Interstate Commerce, from Seattle, Washington, by B. F. Goodrich Rubber Tire Co., to Archer & Wiggins, Portland, Ore. 58 tires were found short upon checking at Auburn Transfer. Auburn is in King County, Washington; 13 of these tires were in defendant Fowler's automobile at Renton, at the time of Fowler's arrest.

A shipment of overcoats was made by railroad in Interstate Commerce, from Chicago, Illinois, to Seattle, Washington. Upon arrival the total shipment was found short. Five of these overcoats were found in the house of defendant Creed Lane, one in the possession of defendant Bellamy, and one in the store of Tom Singer. The train crew that handled the car the goods were shipped in from Ellensburg to Auburn June 25th, and consisted of Conductor Thomas Jones, Creed Lane and Ed. Bourdell.

Eight shotguns shipped by railroad in Interstate Commerce, by Shapleigh Hardware Co., St. Louis, Missouri, to Hostetter & Co., Tacoma, Washington. None were received. One of the eight guns was found in the possession of Creed Lane. The train in which the guns were shipped was hauled from Ellensburg to Auburn, July 30th, 1919, by T. E. Jones and Brakeman Creed Lane as members of the crew.

Fifteen cases of shoes were shipped by railroad in Interstate Commerce, by H. C. Goodwin & Co., Columbus, Ohio, to Shaw's Department Store, Buckley, Washington. Shipment found short sixteen pairs. Shoes found in the possession of Mrs. Sarah Jones had same stock number as these shoes. Defendant Bourdell was a member of the crew that hauled this car from Ellensburg to Auburn.

Four cases of shoes were shipped by railroad in Interstate Commerce by Peters Shoe Company, at St. Louis, Missouri, to J. H. Taylor & Co., of Seattle, Washington, February 28th, 1920. Entire shipment short. David Jones, C. H. Goldman, H. W. Hanson and William Ratcliff were members of the crew which hauled the train in which the shoes were contained, from Ellensburg to Auburn. The shoes were [108] found in the possession of Ratcliff at Renton.

Box of razor strops shipped by railroad in Interstate Commerce by Koken Barber Supply Co., St. Louis, Missouri, to Schwabacher Hardware Company, Seattle, Washington. One and a half dozen short. Strops found in room of George E. White and Ed Bourdell identified as part of shipment. Defendant G. E. White was a member of the crew that hauled the car in which the razor strops were shipped from Ellensburg to Auburn, January 21st, 1920.

Three cases of shoes shipped by railroad in Interstate Commerce from F. M. Hoyt Shoe Co., Manchester, New Hampshire, to Moehring Shoe Co., Snohomish, Washington. Two dozen pairs short

on arrival. Train handled by T. E. Jones and H. W. Hanson, brakemen. Shoes were of the same kind as found in the grip of G. E. White.

Shipment of case of hosiery from St. Paul, Minnesota, to Seattle, Washington, by railroad, in Interstate Commerce. Thirteen dozen short on arrival. Fourteen pairs of similar hose found in the home of Creed Lane, and fourteen pairs in the home of C. H. Bellamy.

Four rolls of matting shipped from Hong Kong, China, via Seattle, Washington, by railroad, in Interstate Commerce, to St. Paul, Minnesota. Defendant Ratcliff testified that the matting was stolen by himself, H. W. Hanson and David Jones at Eaton, Washington.

Case of cutlery shipped by railroad in Interstate Commerce, by Russell Cutlery Co., Turners Falls, Mass., to Seattle, Washington. One package in the order short. In a caboose #1859, cutlery found identified as part of the shipment; similar cutlery was identified as being found in the Hotel of Mrs. H. A. Lewis. The train that hauled the cutlery was handled by T. Jones, as conductor, and E. Trepanier and Ed. Bourdell.

From a copy of the constitution of the Order of Brotherhood of Railroad Trainmen, the following clause was read into the record: [109]

“Whenever the General Secretary and Treasurer shall be satisfied that any member of the Brotherhood of Railroad Trainmen has been acting as an informer, spotter, spy, or other operative for any detective agency, railroad company, or other per-

son or persons, partnership or corporation, which act is or was detrimental and opposed to the best interests of the members of the Brotherhood itself, he shall immediately enter an order, authority for which is hereby given, to suspend such member from membership, and shall cause the entry to be made on the Grand Register opposite the member's name to that effect." [110]

Testimony of George Payne, for the Government.

I visited Room 31, Lloyd's Hotel, Auburn, first on the 26th of February last. I found a pair of shoes in Bourdell's room. I found letters addressed to George E. White. I did not take any of them; found them in a bureau drawer in Room 31. Also some letters in a trunk, railroad receipts to George E. White.

Cross-examination.

The Court refuses to strike testimony of witness on direct examination.

Redirect Examination.

Bellamy's house is 111 South Brannon Street, Auburn.

**Testimony of E. R. Tobey, for the Government
(Recalled).**

I arrested Bellamy on March 19th last coming out of the Lloyd's Hotel in Auburn. I visited Room 31. Bourdell was registered for that room. I went to Bourdell's room on the 19th of March. Bourdell admitted it was his room. I visited the house, 111 South Brannon Street, on the 19th day

(Testimony of E. R. Tobey.)

of March, with Mr. Winquist, special agent for the Northern Pacific.

I saw Tom Singer on the day of his arrest. I went to #304 Denny Building, and served him with a copy of the warrant; we proceeded to search the premises and found an overcoat and two suits of clothes. The overcoat he said he bought three or four months previous at Hart, Schaffner & Marx, in Seattle.

Testimony of Wilfred Failor, for the Government.

Direct Examination.

I am employed as a caller at the Auburn Yard Office of the Northern Pacific Railway Company; I have been so employed since the first of February this year. I know the defendant Bellamy resides in Auburn, at 111 South Brannon Street. I visited the place once or twice. I remember calling him once; he came through the door; he answered by the name of Bellamy. I was sent to call him for a train crew. I rapped at the door and asked if it was Bellamy and he said "Yes." I visited it the other night for the purpose of ascertaining the number. [111] The last time I called Bourdell he was rooming in the Lloyd Hotel. I think it was Room #4.

Cross-examination.

I have no idea when I called Bellamy. It was during the month of February, 1920. I don't know Bellamy personally. I called him before February 18th.

Testimony of Wilfred Failor, for the Government.

Direct Examination.

Since yesterday I visited the house of one Belamy. The number is 111. [112]

**Testimony of William Ratcliff, for the Government
(Recalled).**

Direct Examination.

Coming west on March 15th, at 11 A. M. one of my brakemen was H. W. Hanson, and I stopped the train at Maywood. Hanson went into the bush and got an automobile tire; it was a small tire. I asked him where he got the tire and he said he had some tires over there. He said he was going to sell them. He said he was going to put the tire he got that day on his car. Hanson, to my personal knowledge, had a car.

Testimony of C. J. Bush, for the Government.

Direct Examination.

J. R. Young, Chief Watchman at the Auburn yards, and myself went up on the railroad track, towards the east to look for tires; we did not find any the first time because there was too much snow on the ground. The second time we found them at Maywood, a flag station, about 150 feet from the right of way. They were cached behind an old windfall log, covered over with leaves. Eleven of those tires there are the ones we found. We had the dispatcher stop No. 3 passenger train west-

(Testimony of C. J. Bush.)

bound, and loaded them into the baggage-car and came to Seattle. We found those tires after the arrest of Hanson, Fowler and Ratcliff. [113]

Testimony of J. R. Young, for the Government.

Direct Examination.

I am a special watchman for the Northern Pacific Railway Co. I went up with Mr. Bush, along the track, east of Auburn, to look for tires. It was on April 10th. We were up there two or three times. The first time there was too much snow. They were cached back, about fifty or sixty feet from the railroad. That is the stack of tires we found; there are twelve of them.

Tires offered in evidence as Government's Exhibit 28.

Testimony of Roy Ayers, for the Government.

Direct Examination.

I was at the house of the defendant Hanson in Auburn a few days before the 27th of March, between one and three in the afternoon. Mr. and Mrs. Hanson were there and some old gentleman; I don't remember his name. The date was between the 24th and the 27th of March. Hanson gave me a list of goods that he had or could get for me, and I took my note-book out of my pocket and made a memorandum of the goods he had or could get for me at that time. Hanson called the articles off he had for sale and I wrote them down in his presence,

(Testimony of Roy Ayers.)

and then I read them back and asked him if that was all he had or could get for me.

Government's Exhibit 29—page of the book—admitted in evidence. The pages read as follows: "1000 pounds of block tin; 192 pairs of ladies' shoes at \$2.00 a pair; 60 pairs of children's shoes at \$2.00 a pair; 36 tires at \$10.00 each. 30 cartons of cigarettes at \$40.00."

The old man was making whisky while we were there, he was at the stove while we were at the table.

Cross-examination.

I was convicted of a crime in Dawson, Yukon Territory. I don't know the name of the felony. I was not convicted in California of any crime. I was tried in Los Angeles County and acquitted. I am not a fugitive from justice from Los Angeles County. [114]

Testimony of E. R. Tobey, for the Government (Recalled).

Direct Examination.

I first saw Government's Exhibit 11, at #111 South Brannon Street, Auburn, Washington. It was under the mattress in a Newfold Davenport. The gray suit of clothes, Government's Exhibit 12, I saw in the hair-store of Tom Singer, 304 Denny Bldg. Exhibit 12A, I also saw in Singer's store. I had a conversation with Singer about both the overcoat and the two suits of clothes. He said he bought the overcoat at M. Prager & Co. three or four months previous to the time we seized it. About the suits,

(Testimony of E. R. Tobey.)

he said they were left there by a man who would call for them later. He said he did not know who he was; a man came there and wanted to leave the package there; he did not know what was in the package. The stuff in the gunny-sack, these are two Great Northern tablecloths. I found them in the home of Tom Jones.

**Testimony of Irving Brown, for the Government
(Recalled).**

Direct Examination.

I made a search of certain parts of the Lloyd Hotel in Auburn, on the 26th of February last. Government's Exhibits 16 and 16A are the two grips I found there. I searched the room and found a trunk broken open. We got some razor strops out of there; looked through some letters and envelopes and saw the name of Bourdell. We took the razor strops from the trunk; there was a lot of mail, and a railway card with a name on it, the name of Bourdell. In the drawers we found some Jergensen's Lotion and the ties.

I desire to correct my former statement in regard to the razor strops; we found two of the razor strops in a suitcase there, the leather one marked 16A; three or four in a trunk and two in the dresser drawer of the other room—that was Bourdell's and White's room. The yellow tag was on the bottom of Exhibit 16A when we first saw the grip. The shoes were in the suitcase. The bedspreads are Government's Exhibit 16X.

(Testimony of Irving Brown.)

Bedspreads referred to received in evidence and marked Government's Exhibit 16X. [115]

Redirect Examination.

The suitcase marked Exhibit 16A has White's name on the bottom of it.

Recross-examination.

It is E. White, Sumas. Shipped from Camp Grant, Issinois, to Sumas.

**Testimony of E. R. Tobey, for the Government
(Recalled).**

Direct Examination.

Gunny-sack and contents offered in evidence as Government's Exhibit 41.

I was informed that at the time we searched Bellamy's house, he was in California. I arrested George E. White in the Parks Hotel. Searched his room and found nothing in it. I arrested Dave Jones in Auburn.

**Testimony of Irving Brown, for the Government
(Recalled).**

Direct Examination.

I found a pair of shoes like Government's Exhibit 42 in a trunk; I found a pair of shoes exactly like this in the trunk of Bruce Paris, in the attic of the home of Mrs. Bellamy.

Shoes admitted in evidence as Government's Exhibit No. 42.

**Testimony of N. L. Lovell, for the Government
(Recalled).**

Direct Examination.

I made a search of the house #111 South Brannon Street. There was a pair of shoes found in a trunk in Bellamy's house. Government's Exhibit 17 was found in a trunk at the same address. Exhibits 17A and 17C were found in the same house. The package of overalls was found in Paris' trunk upstairs. Pair of Educator shoes were found in Paris' trunk; I also found a union card there with his name on it. [116]

**Testimony of John Winqvist, for the Government
(Recalled).**

Direct Examination.

Government's Exhibit 41 is marked Great Northern Railway Company,—tablecloths belonging to the Great Northern. Here are four cold chisels and one wrench, pipe wrench, a combination wrench, that are stamped N. P. R., that is the property of the Northern Pacific Railroad. The Northern Pacific Railroad is a common carrier and has been since January 1st, 1918.

Further Direct Examination.

I have been a special agent for the Northern Pacific Railroad for about three years. During that time I have had occasion to investigate pilferages from railway cars.

Q. From your performance of these duties as special agent, have you learned the methods whereby

(Testimony of John Winquist.)

goods are and may be stolen from sealed cars, without breaking of the seals?

Mr. DORE.—I object to that as incompetent, irrelevant and immaterial.

The COURT.—It is preliminary; it is overruled.

A. Yes, sir.

Q. Please explain to the jury.

Mr. DORE.—I object to that as incompetent, irrelevant and immaterial, the methods by which cars may be broken into without breaking the seals.

The COURT.—Objection overruled.

Mr. DORE.—We desire an exception.

The COURT.—Allowed.

A. At the bottom of the side door of a car are lugs that hold the door in place. These lugs are held there by bolts screwed through the beam of the car. The nuts on the inside can be taken off, the bolts taken out, the lugs removed, and the door swung out so a man can enter. [117]

Q. Without breaking the seal?

A. Without breaking the seal.

Q. Can the door be fixed up in its former condition to look just like it did before?

A. Yes, sir, everything can be replaced.

Q. Are there other methods whereby cars can be pilfered?

Mr. DORE.—I object to that as incompetent, irrelevant and immaterial, and not within the issue.

The COURT.—Objection overruled. That is, without breaking the seal?

Mr. CONWAY.—Yes.

(Testimony of John Winquist.)

Mr. DORE.—We desire an exception.

A. No, that is the only thing I know of right now.

Motion for a directed verdict for Joe Vargus on all three counts.

Motion granted. Defendant Joe Vargus discharged. [118]

Direct Examination.

I recognize pile of pig tin, here marked Government's Exhibit 43. I dug it out of the N. P. right of way at Auburn, Washington, March 11, 1920. I found the bars hidden in different places close to the ice-house of the Auburn yards. We had a car pilfered two days prior to that date, and I started searching for more pig tin, which resulted in finding those twenty-three bars. I found them in several places, on March 11th. I am advised the value is ninety dollars a bar.

Each of the defendants moves that the Government be compelled to elect upon which of the number of separate and distinct and unrelated and disconnected criminal agreements, the proof as framed shows to have been established that the Government seeks a conviction. Defendants contend that the testimony of the witness Radcliff discloses that he had an agreement with Dave Jones and Hanson, a brakeman on his train, to steal certain shoes that have been admitted in evidence, and to steal certain matting. That he testified on the witness-stand that he never had any further criminal agreement with any of the defendants here, or any person here, except the arrangement

(Testimony of John Winquist.)

that he made with this decoy salesman Ayers. He does say that Ethyl Hanson was in the automobile with them. Ratcliff admits that he never saw Fowler and never saw Mellison until he saw him in the morning, or night, together with the defendant Fowler. That he had no agreement with him.

Motion to compel Government to elect denied.

Exception allowed.

Motion for a directed verdict for the defendant Bellamy denied.

Exception allowed.

Motion for a directed verdict for the defendant Paris denied.

Exception allowed.

Motion for an instructed verdict for the defendant Sarah Jones denied.

Exception allowed.

Motion for a directed verdict for the defendant Ethyl Hanson, Herbert William Hanson and Dave Jones on each count of the indictment, denied.

Exception allowed.

Motion for a directed verdict for Trepanier.
Motion granted. [119]

Motion for a directed verdict for Mrs. J. A. Lewis denied.

Exception allowed.

Motion for a directed verdict for defendant George E. White denied.

Exception allowed.

Motion for a directed verdict for defendant Mel-

(Testimony of John Winquest.)

lison for each count of the indictment. Motion denied. Exception allowed.

Motion for a directed verdict for defendant Fowler on each count of the indictment. Motion denied. Exception allowed.

Motion for a directed verdict for defendant Creed Lane denied.

Exception allowed.

Motion for a directed verdict for T. E. Jones denied. Exception allowed.

Motion for a directed verdict for defendant Thomas Jones on each count of the indictment denied. Exception allowed.

Motion for a directed verdict for defendant Paris granted.

All the motions for directed verdicts were made up on the grounds that there was insufficient evidence to carry the case to the jury or to sustain a verdict. There was no testimony showing connection between the respective defendants in the case.

Motions for directed verdicts were made separately as to each defendant by respective counsel.
[120]

Testimony of Sarah Jones, for the Defense.

My name is Sarah Jones. I am 47 and married. My husband's name is T. E. Jones. I have been married 27 years. I have a daughter just 23. My husband and I have lived in Auburn 14 years. For about 14 years my husband ran a general merchandise store in Auburn. About two years ago he dis-

(Testimony of Sarah Jones.)

posed of the store which he had maintained in a two-story brick building. I took care of the rooms upstairs, running a little hotel by the name of the Lloyd Hotel. Have operated the hotel for eight years. There are 23 rooms in the hotel. The hotel office is room No. 7, that room being used for keeping suitcases and packages, you know, that people would leave when they came. They would put their grips in there, but I would not know they would put them in there. At night I used it as a sleeping-room. There was a bed, chiffonier and a dresser in there. February 26, 1920, Mr. Brown and Mr. Payne and two or three other men came to the Lloyd Hotel. They had been drinking some. They said they had a search-warrant for room 31.

Brown went through my dresser and found two pair of shoes—one gentlemen's shoes and one ladies' shoes. Exhibits 16D and 42 are the shoes that were found there. I found them in the hallway. They laid around in the hallway for a couple of days and I just picked them up and put them in there, figuring that someone would call for them. When I picked them up they were wrapped in a newspaper. Nothing that was in the suitcase belonged to me. I told the men that I found the shoes in the hall, and the dressgoods I got in our store.

I know George E. White. He roomed there, and when he would come in I would say how do you do, but nothing more than that. He had been in the house several years and went to France and then came back and came up to the hotel. [121]

(Testimony of Sarah Jones.)

My acquaintance with Bourdell was the same as with White. I never talked to White, I think, regarding stolen property or looting railroads, removing of seals from cars, stealing the goods of the United States, or purloining, or appropriating to my own use, or the use of another person goods of the Government. I have known Mr. Jones for several years. I do not know Creed Lane, Ratcliff, Hanson or Mrs. Hanson. I would not know Fowler if I met him on the street. I do not know Singer or Mellison. I never had any conversation about them or about stealing or anything of that kind. I had no way of knowing that any of those defendants were engaged in any unlawful enterprise. I never saw White or Bourdell or any other lodger of the hotel bring in any goods that appeared to be suspicious.

Cross-examination.

I kept personal belongings in the same bureau in which the shoes were found. The shoes were wrapped in one bundle when I put them in the bureau drawer. I had never noticed that the identification marks on Exhibit 42 had been obliterated. The grip marked 16A looks like one of the grips found in my hotel, and 16, a cane grip, also looks like another one. They found two grips in my house. They were found in my bedroom which is also used as an office. The officer opened the grips and I heard them say there was some coffee and some fruit in them. I heard them mention some razor strops. I left the hotel on March 22d and went

(Testimony of Sarah Jones.)

over to the camp where my husband was at Lake City, in Seattle. I had brakemen, conductors, switchmen and trainmen as guests more or less all the time I ran the hotel. The package of ladies' shoes was found in the hall and I just picked them up and put them in the office. [122] They were thrown around there several months, and that is the way the paper got torn off. The hall was upstairs, and it has a stairway up there, then, with rooms on each side, all around the place. I do not remember whether I had any lady roomer at the time I found the shoes. I had possession of them for six months.

Testimony of Tallie E. Jones, for the Defense.

Direct Examination.

I am the husband of Sarah Jones, the defendant, who has just been on the stand. Until two years ago I carried on a general merchandise business at Black Diamond and Auburn, and I am now in the contracting business. My wife was proprietor of the Lloyd Hotel at Auburn for eight years. I I know White and Bourdell when I see them. I have talked with them once in a while. I saw a couple of pair of shoes around the hotel for a while.

Testimony of Miss M. K. Jones, for the Defense.

Direct Examination.

My name is Miss M. K. Jones; 23 years old; the daughter of Sarah Jones and Tallie Jones. I have

(Testimony of Miss M. K. Jones.)

lived in Auburn about eighteen years. I lived at the Lloyd Hotel about eight years. I was in the Lloyd Hotel on February 26th when Mr. Connor, Mr. Ramage, Mr. Loveall and Mr. Payne and two or three other men came. I believed the five men to be intoxicated. I had seen the shoes in a bundle lying around for some time. I know White and Bordell casually. I heard Deputy Sheriff Brown ask my mother about the shoes, and she told him she picked them [123] up in the lobby; that they had been lying around there. And the dressgoods, he was going to take that, and she said that is mine. I had that since Mr. Jones, my father, went out of business. I personally know when my father went out of business; I went down and cut off yards and yards of different kinds of material, and I think my father gave my mother a few pieces.

Cross-examination.

I saw the shoes when they were in the hallway, and I saw them in my mother's room.

Testimony of S. Cavanaugh, for the Defense.

Direct Examination.

The reputation of Sarah Jones for honesty is good.

Cross-examination.

I never heard anybody discuss her reputation.

Testimony of W. R. Wiley, for the Defense.

Direct Examination.

The reputation of Mrs. Sarah Jones for honesty is good.

Cross-examination.

I never heard her reputation discussed before this trouble came up.

Testimony of Mrs. Alfretta Moss, for the Defense.

Direct Examination.

Sarah Jones' reputation for honesty is good.

Testimony of John X. Mills, for the Defense.

Sarah Jones' reputation for honesty is good.

Cross-examination.

I never heard it discussed. [124]

Testimony of David Jones, One of the Defendants.

I am David Jones, living in Auburn, and my business is a railroad brakeman. I have been a brakeman since August, 1916, outside of two years in the service of the Government. I was in the submarine service. I came back to Auburn and became a railroad brakeman. I returned to Auburn June 27, 1919. I worked for Conductor Ratcliff. On March 20, 1920, on the train from Ellensburg to Auburn I was swing brakeman or middleman. My duties were switching, hot-boxes, brakes, rigging, dragging. The crew was Conductor Ratcliff, Mr. Hanson, myself and Goldman. Hanson was the rear brakeman or flagman. Goldman was the head brakeman. Hanson was stationed on the rear

(Testimony of David Jones.)

of the train at the caboose, and Goldman on the head end, at the engine. James Losby was the engineer and Johnson was the fireman. Conductor Hutchinson got on the train at Easton and dead-headed to Auburn. I had a quarrel with Ratcliff on the 20th of March, 1920, in the caboose. He was denouncing the Government when I balled him out. Conductor Ratcliff set off a red fusee and stuck it on the side of the cupola of the caboose. When the train stopped Ratcliff was out on the front platform, and he went up beside the train down on the left-hand side. I saw Hanson on the ground alongside of the caboose. When the train started I climbed on the caboose. The train had pulled down ten or fifteen car-lengths before Conductor Ratcliff got on. No other stops were made at or near Mile Post 91. I never made any more trips with Ratcliff; I asked to be relieved. I saw no shoes or other merchandise on this trip. I did not see any seals on any cars broken. I never had a conversation with Ratcliff or Hanson about shoes or merchandise. No matting was thrown off the train on March 3d. [125] The right of way is open at Easton. On the way back I did not pick up any matting or have anything to do with any. I had no agreement with Lemuel Fowler, Mellison, or any of the other defendants named here to steal.

Cross-examination.

I am the son of Sarah Jones.

(Testimony of David Jones.)

Redirect Examination.

I am a member of the Brotherhood of Railroad Trainmen; I do not think Ratcliff is.

Testimony of James Frederick Losby, for the Defense.

I am a locomotive engineer for the Northern Pacific, and have been for twenty years. I live in Auburn. I was the engineer on the train going west from Ellensburg to Auburn on or about the 20th of March, 1920. Ratcliff was the conductor; the brakemen were Goldman, Jones and Hanson. Goldman was the head brakeman and rode on the engine. Jones was the swingman. The train stopped at Mile Post 91 for about 20 minutes. I saw brakeman Jones about 15 or 20 cars from the engine. There was a red fusee burning on the rear of the train. I did not see any hot-box.

Cross-examination.

The only side of the train I could see was the right-hand side. I am a member of the Order of Engineers. The Brotherhood of Railway Trainmen is a different order altogether and they are not affiliated in any way.

Testimony of Henry Goldman, for the Defense.

I am a brakeman employed by the Northern Pacific. I know Jones, Hanson and Ratcliff. On March 20, 1920, coming from Ellensburg to Auburn, the train stopped at Mile Post 91. [126] The engineer said he stopped for a red fusee. I did not see any hot-box.

Testimony of R. A. Hutchinson, for the Defense.

I am a freight conductor on the Northern Pacific. I rode on the train from Ellensburg to Auburn on March 20, 1920. I got on at Easton. Ratcliff was conductor and Jones and Hanson were brakemen. I did not hear any conversation between Ratcliff and Hanson and Jones about stealing shoes. I was in the caboose all the time. I saw Hanson at the rear of the train. I saw David Jones at the right-hand side of the train.

Testimony of David Jones, for the Defense.

Direct Examination.

I never knew Mr. Ayers until I saw him on the witness-stand here. My apartment is No. 5 Brooks Apartments, Auburn. It was searched but nothing was found.

Testimony of Stanley Wallace Brown, for the Defense.

Direct Examination.

I am cashier of the Citizens' State Bank of Auburn. David Jones' reputation for honesty is good.

Testimony of J. R. Wallace, for the Defense.

I am a justice of the peace at Auburn. The reputation of David Jones for truth, veracity and honesty is good.

Testimony of W. I. Wiley, for the Defense.

I am in the grocery business in Auburn. David Jones' reputation for honesty is good. [127]

Testimony of S. Cavanaugh, for the Defense.

I am vice-president of the Citizens' State Bank of Auburn. David Jones' reputation for honesty is good.

Testimony of Herbert William Hanson, for the Defense.

My name is Herbert William Hanson. I live in Auburn. My occupation is railroad brakeman. I worked for the Northern Pacific since June 1st, 1917. I am 31 years old and married and have one child. I know David Jones and William Ratcliff. On March 20, 1920, I was running from Ellensburg to Auburn. Conductor Hutchinson got on the train at Easton. Ratcliff got a fusee. Jones asked him why he stopped the train, but got no answer. I had no conversation with David Jones about pilfering any box-car, or with Ratcliff either. I had Ayers working on my car at Auburn. He ran a repair garage there. I had him overhaul the engine. Ayers told me he wanted to sell me some tires. I purchased a 30 by 3½ tire from Ayers and paid him fifteen dollars for it. I never had any matting in my possession. I never had a conversation with Ayers in the presence of Mrs. Hanson and Mr. Lang in which I offered to sell him some merchandise consisting of pig tin. I never delivered any

(Testimony of Herbert William Hanson.)

merchandise to Ratcliff's house. I never put any rolls of matting off the train. They found one automobile tire in my house. I owned a machine at the time and the tire fitted the machine. I only know George White to speak to him. I worked one trip with Bellamy. I know the defendant Bordell only to speak to him. I know James Francis Mellison when I see him. I know Joe Bargas to speak to him. I do not know Thomas Singer. I know Mrs. Creed Lane and Mrs. J. A. Lewis just to speak to them. [128]

Cross-examination.

Ayers claimed that the tire he sold me was a second-hand one. I am a member of the Brotherhood of Railway Trainmen. I know David Jones. I do not know whether either White, Bellamy or Paris are members; I cannot say whether Mellison or Creed Lane are members. I have known Mrs. Lewis probably ever since we have been living in Auburn. When I first came to Auburn I stayed at her hotel two or three times. I did not go out on the highway to meet father. I did not know anything about father. I did not meet Ratcliff on the night of March 27th, and I did not tell Ratcliff to collect any money for me. I know nothing about the shoes.

Testimony of Stanley W. Brown, for the Defense.

On March 27, 1920, at Auburn about 7:30 in the evening, I saw Hanson and Mrs. Hanson. Hanson owed me some money and told me he would have his pay check in a few days and he would pay it.

Cross-examination.

I met him on the corner of First and Silver, Mr. and Mrs. Hanson were in their automobile.

Testimony of S. M. Griffin, for the Defense.

On March 27, 1920, I saw Herbert William Hanson and Mrs. Ethel Hanson on the streets of Auburn between 9:30 and 10 o'clock.

Testimony of Henry Lang, for the Defense.

My name is Henry Lang. I resided in Auburn 20 years. On March 27, 1920, Hanson and his wife came home close to 11 o'clock. They left the house between 7 and 8. I do not know how to make whiskey. I did not hear any conversation between [129] Hanson and Ayers about selling some tires and some tin and cigarettes.

Cross-examination.

Ayers was there once or twice.

Testimony of Jack N. Windley, for the Defense.

Direct Examination.

I am the owner of the Auburn Garage and the agent for the Chevrolet car. I sold Hanson a Chevrolet car. I rented my machine-shop to a man named Ayers. He got into jail and I cancelled his

(Testimony of Jack N. Windley.)

lease. I told him I did not want him there any more. Herbert William Hanson's reputation for honesty is good.

Cross-examination.

Ayers was introduced to me by R. C. Rice, who drives a stage between Seattle and Auburn.

Testimony of George W. Colby, for the Defense.

My name is George W. Colby. I have lived at Auburn since 1913. I am by occupation a locomotive engineer. I worked for the Northern Pacific 17 years and I know Hanson and his wife. I have lived in the house with them. I know Roy Ayers. I heard a conversation between them about overhauling the engine of a car. I heard them talk about overhauling the engine of M. J. Forler's car.

Cross-examination.

I left the Hanson house in the middle of 1919 and went to the St. Elmo Hotel run by Mrs. J. A. Lewis, the defendant here. I was working running a switch-engine in the Auburn yard up until the first day of February for a year and one month. On February 1, 1920, I went out on the road. [130]

Testimony of Gorman John Forler, for the Defense.

I have lived in Auburn six or seven years and worked as an engineer for the Northern Pacific Railroad. I was in the Auburn Garage in the City of Auburn and Herbert William Hanson and Goldby and Ayers were present. I went down there to have my car overhauled. There was no conversation about shoes or tires.

Testimony of William S. Dippo, for the Defense.

I am a jeweler in Auburn. The reputation of Herbert William Hanson for honesty is good.

Testimony of Samuel L. Ackerman, for the Defense.

I am in the clothing business in Auburn. The reputation of Herbert William Hanson for honesty is good.

Testimony of Ethyl Hanson, One of the Defendants.

My name is Ethyl Hanson. I am the wife of Herbert William Hanson. I have a boy eight years old. Mr. Lang lives in the house with us. Prior to March 27, 1920, I was never at the home of Mr. and Mrs. Ratcliff. I do not know Mrs. Ratcliff. On the evening of March 28, 1920, I left my home in the machine of my husband to look for my little boy. He had been away all the afternoon. Ayers used to visit our house. But my husband refused him admission because he had insulted me. Prior to the first of the year 1920 Ayers brought a tire to my house and sold it to Mr. Hanson. It fited the wheel of our machine. Ratcliff never came to our house. I never heard a conversation between Ayers and Mr. Hanson when Mr. Lang was present when Mr. Ayers offered to buy and Mr. Hanson offered to sell some pig tin and some cigarettes and some automobile tires. I do not know Mrs. Lewis, Edward Bordell, James Mellison, David Jones, T. E. Jones, Clarence Bellamy, Sarah Jones or Creed Lane. [131]

Testimony of Thomas S. Singer, One of the Defendants.

I am Thomas S. Singer. I live on Cremona Street, Seattle. I am married and have lived in Seattle since 1908. I was born in Russia and came to this country twenty years ago. I am now 34 years old. All my life I followed the hair-goods business. I have been in the hair-dressing business ever since I have been in Seattle. I now have a place on the third floor of the Denny Building. Just prior to that I was located at 1330 Second Avenue, main floor. In my hand I hold a paper showing a rough draft of my store. The office is shared between myself and Mr. Clark, my partner.

Testimony of Mrs. Edith Hill, for the Defense.

I live in Seattle. I have been employed since October 20th, making wigs and toupees in the employ of Thomas Singer.

(Diagram of Singer's store admitted as Defendant's Exhibit "D.")

There are shelves in the room I work in. They hold mostly hair boxes and some forms and models and dummy heads. I saw a package on the shelf there. It was there two or three days. A new box of tubes came in and the parcel was put in a large wooden box without a lid. The new box of tubes was set on the top. That was the only place the new box of tubes could be set as the room was all filled up. The parcel stayed in the box about a

(Testimony of Thomas S. Singer.)

week. I saw Mr. Clark with the parcel in his hand when the tubes came in, and I saw him put it in the box. There were four boxes on the floor.

Testimony of Thomas S. Singer, One of the Defendants.

I have known defendant Bordell seven or eight years. I became acquainted with him when first he came in and left an [132] order for a toupee. After that I would see him whenever he would come into the store for a haircut. I saw him in the middle of January last. I had not seen him for a long time prior to that as he was in France in the army. I do not know how long he was in France. He wrote to me at some time to send some placer for a toupee. When he came in in the middle of January he left an order for a toupee. It was January 16th that it was entered in the order-book, and shows on page 424. The order was put in in Mr. Clark's handwriting. I made none of the entries in the order-book. I take the measure of the toupees, and the entries are made by Mr. Clark in my presence. I take the pattern, and measure, and sample, and give those to Mr. Clark to put on the book.

(The Court admitted in evidence Defendant's Exhibit "E," being page from the order-book referred to.)

"January 16, 1920, Ed. Bordell, City, To 1 Toupe, del. Nothing paid." Mr. Clark put that there. The toupee was delivered on the 30th of January to Mr. Bordell. Bordell came into the

(Testimony of Thomas S. Singer.)

office and I asked him into the haircutting room, room 5, while I trimmed his toupee and trimmed his hair. He said, "Tom, I have an overcoat. Try it on and see *it if* will fit you." So I took that overcoat and put it on, and the overcoat could not have fitted me any better. After I tried the overcoat on and I saw it fitted me good I asked him how much he wanted for it. Bordell said, "I will tell you what I will do. Suppose we call it square. I will take the toupee and you take the overcoat in payment." The price of the toupee was supposed to be forty dollars. I told him that was dandy with me. He didn't tell me where he got the coat, but I saw that Hart, Shaffner & Marks sign on it and I assumed he got it there. [133] He said it was a little too small for him. When he came into the room he had the overcoat with him. I do not know whether he had it loose on his arm or in a bundle. While he was talking to me he had the overcoat on his arm. I do not know where the coat came from. I had no knowledge or no suspicion that it had been taken by any person from an interstate shipment of merchandise; if I had I would not have bought it. I never bought anything else off of Bordell. Mr. Clark's testimony as to the examination by me of some shoes that Bordell had and about me asking him to try on a pair and asking him if he wanted a pair, that is a deliberate prevarication. No such conversation took place, and I have never seen a pair of shoes in there. Bordell came in one day and said to me, "Tom, do you know a reliable shoe

(Testimony of Thomas S. Singer.)

man that I can sell some shoes to?" So I told him I might know somebody. So in the meantime I met a fellow here on Third Avenue. I was going up there to see a store that a man had, and that man was Armstrong. While I was talking to him about the store I came to the conclusion that the store was too small. He had a little place for rent, and I said to him at that time, "I know a fellow who has some shoes to sell and I could bring him up to see you," and he said, "Yes; do that." Bordell was not present. When I met Bordell again I told him about it, and he had a little black satchel with him, and I took him up and introduced him to that shoe man. I spoke a few words to Mr. Armstrong and then went away. Bordell never tried to sell me any shoes. I never told Clark that Bordell was in the railroad business or that he was getting merchandise from trains. I never had any knowledge of such a thing. Bordell told me after he came from France that he was buying up merchandise stock in little towns, that he [134] was making his living in that way, and I believed him. One day the officers came to my place with a search-warrant and they found a parcel in a box in the store. The officers came in and handed me a search-warrant and I looked at the search-warrant and I didn't quite understand what it was for. I read it through, and after I got through I said, "Gentlemen, you are welcome to search the rooms if you want to." I gave them full authority to go through everything if they wanted to go through it.

(Testimony of Thomas S. Singer.)

And Mr. Winquist, this gentleman here, picked up my overcoat that was hanging on a hat-rack where the customers hang their hats, and I hung my hat and coat up there too. It is in the room that you come into when you first enter the place, the sales-room. So Winquist took the overcoat, and he said to me, "Where did you get the overcoat?" Well, all my people were in the room at that time, and at that time for some reason I did not want to say just exactly the words I have testified here, for the simple reason that I did not want all my employees to know that I had such a thing as a second-hand coat, and unfortunately I said this other thing. I said I got the coat from Hart, Schaffner and Marx place. It is a Hart, Schaffner & Marx coat, and so I didn't have any reason to believe otherwise. I got the coat from Bordell. Winquist took the coat away. They took my other overcoat but they returned it the next day. Mr. Winquist brought it back. I have never seen any of the other defendants except Bordell. They took two suits of clothes out of my place—one gray and the other a dark color. Bordell came in one day about the time I got to the shop and I took him into the haircutting booth and gave him a haircut. And after he left another gentleman came in, and we had been talking about this fellow. He had never had a toupee before and [135] he was talking about a toupee and I was trying a toupee on him, and while I was talking to him I happened to look over in the corner of this room—in the same room as my haircutting

(Testimony of Thomas S. Singer.)

room—right about in the corner, and I saw a bundle wrapped up in paper, and at that time I thought that this was this fellow's bundle. So I did not say anything to him. Finally he went out without buying a toupee and said he would drop in in a couple of days and give me a deposit. So when I saw that package I was rather glad with the chances that he had forgot the package after he left, that he was coming back for it. So I told that to Mr. Clark. I said to Mr. Clark, "That fellow will sure be back, because he left a package." So I took the package and put it into my room, which it is marked No. 7, and I forgot all about it. The next morning I happened to see the bundle wrapped in white paper, that is, not ordinary wrapping paper. It was laying on one of those boxes with hair in it. I said to him, "What is that bundle, Jack?" Clark says, "That is the same bundle that fellow left here the other day." I said to him, "Why, it has a different paper on it." "Well," he says, "It was torn, and I re-wrapped it." So I took that bundle and took it back into the bigger room, because this room is very small, and put it on a shelf. That is all I know about the package. I do not know where the officers found it. I told them when they found it that it was left by a man there. I never knew that these two suits of clothes or that overcoat had been part of a shipment which was stolen from the Northern Pacific Railway. I never negotiated with Bordell for any merchandise that had to my knowledge been stolen. I never

(Testimony of Thomas S. Singer.)

talked with Bordell directly or indirectly with any reference to any property that I knew or had reason to believe had been [136] stolen. I never had any communication with anybody else in this case with reference to property that was stolen. I have never been arrested before.

Cross-examination.

I do not know who brought the package of clothes to my place. I thought it was the man who left the order, because that is the first time I saw the package. I did not know what was in the package until the officers found it. Bordell was in the same day. He had a haircut. It might have been Bordell that brought them in. I told Clark, "You will have to charge Mr. Bourdell's toupee to me, because I got that overcoat from him." "Well," he said, "I will tell you, Tom, I have had two toupees made by the firm here, and wearing myself, we will call that square." I said, "All right, Jack, we will let it go at that." I have never traded a toupee for an overcoat or a suit of clothes before. I never told Clark he could get shoes and overcoats if he wanted them. I took Bourdell to Armstrong because Bourdell told me he had some shoes to sell. I did not know he was a railroad man at that time. He told me he came from France he was buying up stock from little towns. He asked me if I knew anybody he could sell shoes to. He said he was buying up bankrupt stock from little towns. The clothes had not been found when I made the remark about the overcoat. The overcoat stood me for forty dollars.

(Testimony of Thomas S. Singer.)

Redirect Examination.

I have been in business with Clark for about two years. He bought a half interest with me for six thousand dollars. We have not been on good terms since we moved upstairs. He was growling about his bargain. [137]

Recross-examination.

Clark saw the coat on me the day I got it from Bourdell. Clark asked me where I got it, and I told him I got the coat from Bourdell on that day that I got it. I never told Clark that I got the coat from Hart, Schaffner & Marx and paid \$65 for it.

Testimony of I. B. Knickerbocker, for the Defense.

The reputation of Tom E. Jones for good citizenship is good.

Cross-examination.

I have done a little business as a lawyer for Mr. Jones.

Testimony of W. W. Downing, for the Defense.

The reputation of Tom E. Jones for citizenship is good.

Testimony of James B. McGilvrey, for the Defense.

Direct Examination.

The reputation of Thomas E. Jones in the community for being a law-abiding, honorable and upright citizen is good.

Testimony of George Krouse, for the Defense.

The reputation of Tom E. Jones for citizenship and honesty is good.

Testimony of Dr. B. E. Hoyer, for the Defense.

The reputation of Creed Lane for citizenship is good.

Testimony of W. T. Behna, for the Defense.

The reputation of Creed Lane for honesty and citizenship is good.

Testimony of James A. Reilly, for the Defense.

The reputation of Edward Bourdell as regards being peaceably disposed, upright and lawabiding is good. [138]

Testimony of W. S. Dippo, for the Defense.

The reputation of Edward Bourdell is good.

Testimony of Samuel Ackerman, for the Defense.

The reputation of Edward Bourdell for being an upright and law-abiding citizen is good.

Testimony of B. M. Bird, for the Defense.

The reputation of Thomas Singer for truth, veracity and honesty and fair dealing is good.

Testimony of Adolph Behrens, for the Defense.

The reputation for truth, veracity, honesty and fair-dealing of Thomas Singer is good.

Testimony of Alexander Malamud, for the Defense.

The reputation of Thomas Singer for truth, honesty, veracity and fair dealing is good.

Testimony of George C. Rickard, for the Defense.

The reputation of defendant Singer for truth, veracity and honesty and fair dealing is good.

Testimony of Hazel Downing, for the Defense.

My name is Hazel Downing. I am employed at Singer Incorporated in the Denny Building. I did all the work in the hair-dressing establishment. I remember the officers getting a package from the workroom. The package was in a box underneath some shelves. I do not know who put it there. I saw Mr. Clark tying it up when I came to work one morning. He was putting wrapping paper on it. There was newspaper on the floor. Mr. Singer brought the package in one day and left it in the workroom where I was working, and left it under a shelf, saying that a man would call for it in a few days. It was there for a few days and I did not see it again until the officers came in and got it. Mr. Clark and Mr. Singer do not get along very well.

[139]

Testimony of Thomas Singer, One of the Defendants.

I heard Mr. Clark testify that after the preliminary hearing before the United States commissioner that I had told him that he had cooked my goose. I never made any such remark.

Testimony of H. E. McIntire, for the Defense.

The reputation of Creed Lane for honesty is good.

Testimony of J. Harry Price, for the Defense.

My name is J. Harry Price. I am 35 years old. I live at Seahurst Part, Seattle. I am the son of the late James Price, Secretary of the State of Washington. I was born in Tacoma. I am in the

(Testimony of J. Harry Price.)

lumber business. I have known Creed Lane for seven or eight years. I saw him in Auburn in the month of February last. He was standing near the moving-picture show and I was in my car. In the afternoon of February 16th I bought a Buick car. About eight o'clock when over on the highway near Auburn I decided to go into Auburn. My wife has two uncles living there and I thought I would drive over there and let them see this car. I was going along the main street when I happened to see Mr. Lane standing there by the moving-picture show. I had seen Mr. Lane on the street some time in December or January and he told me he had some potatoes he wanted to sell. I asked him about the potatoes and he said all right. I drove from the picture show two and a half blocks and we turned along the road and he directed me. We turned south—I believe it must have been south—and he directed me, and as we went to turn a curve, and went underneath a railroad culvert, and came up on the river bridge, my headlights shown on what looked like a body to me at first, and as I got nearer it was magnified,—and I pulled up, so as to clear myself in the road, so that if anybody came around, I would be in the clear [140] with my car. Mr. Lane and myself got out and walked over to this stuff, and it was the greatest bunch of junk I ever saw. There was a shotgun there and some other stuff covered with canvas. The stuff was all heaped up. It lay right off the county road. I saw it first. I made the remark to Lane, or he possibly to me,

(Testimony of J. Harry Price.)

as to how that stuff got there. And he said he did not know. He said, "What is the matter with picking it up and taking it up to my house?" So I left my car where it would be safe and he and I picked the stuff up and packed it up to his kitchen.

Cross-examination.

The night I met Mr. Lane was February 16, 1920. I met him accidentally. It was about eight o'clock in the evening. I bought a sack of potatoes from him that night and brought them home. I recognize the black suitcase. There were some tan shoes, probably a dozen pair. They were all in a bundle. I found a shotgun. I examined the shotgun. There was a suitcase and a hand-bag, and the hand-bag was heavy enough. There was socks. I was in Lane's house for about ten minutes. I did not see anybody else at his house. I told no one about finding any of this stuff off the side of the road. Lane came over to my house and asked if I remembered the incident.

Testimony of Creed Lane, One of the Defendants.

My name is Creed Lane. I am 40 years old. I was born in Tennessee. I have lived in Washington since June, 1911. I resided with the exception of two weeks of that time in Auburn. I lived on fifteen acres of ground three miles south of Auburn, near Stuck River. I have a wife and three children. I was living there last February. I was in Auburn near the picture show when [141] Price drove up, and went to my place to get a sack of

(Testimony of Creed Lane.)

potatoes. We went two blocks east and turned to go to my place. Going over on Stuck River bridge, the approach to the bridge after you get off the south approach of the bridge, you turn under the Northern Pacific tracks, and there is a very sharp curve there, with only room for one car to pass under those railroad tracks. The wagon road runs under the tracks. Mr. Price spoke and said, "What is this ahead?" We drove up a little closer and stopped and got out and found this bunch of merchandise. I know they took the stuff away from my house on February 17th of this year, all of it. It was taken away from my house the next day following the time when I found it. Price and I found it on the night of the 16th, about 8 o'clock. Price backed his car up and picked up the stuff and put it in the car and packed it into the house. I told Mr. Price to leave the stuff with me and I would ask some attorney in Auburn if someone did not call for it right away, and I would find who the owner was. The following day the officers came and got it. I did not steal or take any of that property or any part of it from the Northern Pacific Railway. I did not know it was stolen.

Cross-examination.

I had no reason to suspect that it was stolen and did not suspect it. The coats I hung up in my bedroom—I believe there were five or six—and some of the heavy shoes were put in the little shed back of the house. There was some Bootjack tobacco and one carton of cigarettes out there. The officers

(Testimony of Creed Lane.)

found all the stuff that I found. On February 17th I talked to Winquist about the Northern Pacific pass. I told Winquist about another gun that I did get in Easton. There [142] were three other guns in the house. I heard the Wheel Report read here to the effect that these overcoats were in a train in C. P. St. L. Car 4188, a train hauled from Ellensburg to Auburn by a crew of which I was a member. I was a brakeman on the train that hauled C. P. St. L. 4188, the train that hauled a shipment of cutlery.

Redirect Examination.

Government Exhibit 32 is my pass. The last time I saw it was February 5th. I lost the pass. I had it in an ordinary suit of clothes that I carried on the caboose to slip on at the home end of the trip. Leaving Ellensburg I changed my clothes and put on work clothes, and when I got to Auburn on the night of the 5th and went to change my clothes the clothes were gone. I left them hanging in the caboose. But the clothes were gone and my pass and an old switch-key that was in the clothes. I discovered it on the night of the fifth of February, 1920, at 10 o'clock, and I immediately wrote a letter to Mr. Robinson, trainmaster of the Seattle Division. I reported the facts to Mr. Brastrup, assistant trainmaster at Auburn, and asked him for a switch-key in the place of the one I lost, and he said he had none. I then told him about losing the clothes and pass and switch-key. He said I had better write Mr. Robinson. My conversation with

(Testimony of Creed Lane.)

Brastrup was two or three days after I had lost the suit. Caboosees have an ordinary Northern Pacific door lock and a pass-key, and I believe that any pass-key unlocks them. A regularly assigned crew ordinarily keeps the same caboose for a number of trips, maybe two or three years. I was one of a regular train crew. Mr. Jones was my conductor. I was a front brakeman. The regular men were Mr. Bourdell and Mr. Bellamy. Defendant's Exhibit "F" is a key [143] that will unlock the caboose or unlock any caboose or any coach. I have seen them unlock the door in a station. I do not know anything about the stuff taken from the caboose at all. I was not working steadily in January and February. February 14th was the last work I did prior to March 26th on the Northern Pacific.

Recross-examination.

I heard the testimony that a train from Auburn to Ellensburg, February 6th, of which I was a member of the crew had my pass. I was arrested at my home on February 17, 1920. I don't think I ever told them or asked the officers to ask me no questions about the stuff.

Testimony of John R. Wallace, for the Defense.

I am a justice of the peace in Auburn. I issued a search-warrant for the home of Thomas E. Jones. These papers constitute a complaint and warrant issued upon that complaint. The warrant was given

(Testimony of Mrs. Etta Lane.)

by me to Deputy Sheriff N. L. Loveall.

(The complaint and search-warrant were admitted as Defendants' Exhibit "G.")

Testimony of Mrs. Etta Lane, for the Defense.

My name is Etta Lane. I am the wife of Creed Lane, one of the defendants in this case. I have been married 20 years. I live three miles south of Auburn. There are five in the family—three children and us two. I know Harry Price drove out to our house on the night of February 16th between 8 and 9 o'clock. Mr. Price and Mr. Lane brought the goods in our house. I was in bed at the time when they came, and the children were both in bed. Price stayed in the house about ten or fifteen [144] minutes. My husband told me where he had found the property. The officers came about three o'clock the next day. We live on a ranch.

Cross-examination.

When I saw Price that night I did not know his name. My bedroom was off the kitchen and there was a light in the kitchen. There was no light in the bedroom. I looked out to see who it was, but I do not think they saw me. The stuff was brought in a canvas cover. Mr. Lane told me that he had sold Price a sack of potatoes. I got up after Mr. Price went out and we took the stuff off the floor and put it away and put it in where we could find room to lay it up. I saw the shoes and socks and shotgun. He put most of it away and I put part of it away. We laid it up wherever we had

room. He said he would probably make an inquiry as to who owned it.

Testimony of W. O. Adams, for the Defense.

I am clerk at the Northern Pacific Railway and was in February last. I was a trainmaster's clerk. I received a communication from Creed Lane regarding the pass said to have been stolen and a switch-key.

Testimony of Mrs. T. E. Jones, for the Defense.

I am the wife of Thomas E. Jones, one of the defendants. I have been married six years and live in Auburn. I was home the day the officers came and searched the premises. They went through the house and searched everything. They searched the dresser drawer, buffet, library drawers, and through the shelves, and from there they went down to the basement and into the garage. Mr. Connor and I were standing in the doorway while the others were searching the premises; and when they got through Mr. Connor asked them if they found anything, [145] and they said no, as they left. On March 19th Tobey, Winquist and Payne came to the house and Mr. Tobey handed me a search-warrant. I told him they had already searched there but I had no objection to their searching again. And they went through the house again, and these canvas gloves they were there the first time, and a half sack of sugar I had in the kitchen. They got five pair of canvas gloves. The gloves came from Friedman's, in Tacoma. They had a sale on there, and

(Testimony of Mrs. T. E. Jones.)

we bought six pair, and Mr. Jones took one pair to the caboose. From the tool-box down in the basement they got three automobile wrenches. We have had three cars in four years and the wrenches came from the cars. The shoes marked "31-Jones" are like those taken in the search. The rubbers marked "41-Jones" were there when we took possession of the house. The tablecloths were on the table, and Mr. Winqvist asked me, "How long have you had these?" and I said several years. And when they were ready to go they took my tablecloths. They were given to me while I was working in a restaurant. I have had them since 1915. A man brought them down to the restaurant and gave them to me. The brush marked "41-Jones" came from the 15-cent store in Tacoma, to clean the carpet-sweeper with. The wrench marked "T. E. Jones wrench," they did not get at my house. They did not get the chisels at my house. Those automobile wrenches look like the ones found in my house. They found a gun scabbard. I know nothing about what they got in the caboose.

Testimony of Thomas E. Jones, One of the Defendants.

My name is Thomas E. Jones. I have been in the employ of the Northern Pacific as a freight conductor. The last time I used the caboose was on March 26th. The lockers did not have locks on, and the outside doors lock with a caboose key, which [146] a pass-key will unlock also. I left there

(Testimony of Thomas E. Jones.)

7:30 A. M. on March 26th, and there were no locks on the lockers then. I unlocked the outside door with the caboose key and stayed with them and saw them take out of the caboose the only thing that belongs to me—my mackinaw. The trip before that I bought three or four pounds of coffee and we put it on the car and we had quite a bit of supplies, and I brought out a lot of eggs and other stuff. When we are called we do not know whether we are going to stay out one or two days or two or three weeks, and the custom is to lay in a supply. It is common for all the crews to cook on the car. We had wrenches like that and chisels like that in the caboose. The wrench and chisel were not found in my house. I had three automobile wrenches just like that in a tool-box at home. I have had three cars in four years. Car C. P. S. & L. 4188 shows on the Wheel Report as having been in a train handled by me on January 25th. I think the car got in to Auburn on January 25th. Car 16,880 was handled by me, and had reached the Auburn yards at 10 P. M., September 12th. That car went to the house some time the next morning and was checked along in the morning. The car was left in the yard about 12 hours before it was spotted at the house. I was not responsible for the car after it reached Auburn. The seals were all O. K. as far as I know when the car reached Auburn. F. R. White, a brakeman, was a member of my crew. But George

(Testimony of Thomas E. Jones.)

White never was a member of my crew. I know nothing about any stolen property.

Cross-examination.

I have been in the railroad service 20 years. I am a member of the Railway Conductors, but not a member of the Brotherhood of Railway Trainmen, and I am not in any way bound [147] to it. I have nothing to do with brakemen and switchmen. The conductors have an order of their own, as the engineers do. They are not a member of the Trainmen. Bourdell, Lane and Bellamy were members of my crew. Most of the time our run has been between Auburn and Ellensburg, and as a conductor on a transcontinental train I picked up transcontinental merchandise left at Ellensburg and bring it to Auburn. We had a locker in the caboose, for our grub, and there was two lockers, one on one side and one on the other side. On the first of February the lockers had locks on them. They were taken off about the fifth of February. I never saw that cutlery before. I never saw that suit of clothes. The conductor has a regular bill for each car and knows what it contains.

Testimony of Walter W. Goodson, for the Defense.

Cars of merchandise arriving in the Auburn yards are generally set at night.

Testimony of S. M. Griffin, for the Defense.

I live in Auburn. I am assistant yardmaster for the Northern Pacific. I have held that position for five years. I have charge of the switching crews. Merchandise from the east, arriving at Auburn after three thirty P. M., is not spotted at the house until the following morning. The train crew has no control over the car. Car M. C. 61,880 was checked by Prentiss between six A. M. and eight A. M. The cars remained in the yard a great many hours after the crew brought it in. The expression "spotted at the house," means shifted into the platform for the purpose of unloading. It is part of the duty of the checkers to look over all the seals. There is no record of a broken seal to my knowledge on that car. If a car came into the yard with a broken seal the car would be carded up [148] on the arrival, and the carders would catch the broken seal and seal the car on the arrival of the car.

Testimony of Walter W. Goodson, for the Defense.

When a car is reported with a broken seal we send a man out to seal it up. I have no seal record of car M. C. 61,880. If it had a broken seal, as a rule I would have had a record of it.

Testimony of Mrs. Sarah Lewis, One of the Defendants.

I own the St. Elmo Hotel in Auburn, the largest hotel there, and I have had it for eight years. I came to Auburn and opened the hotel. I have been

(Testimony of Mrs. Sarah Lewis.)

in the restaurant and café business in Auburn. I know Mr. Ratcliff and Mrs. Ratcliff. They brought me a letter written by Judge Lawrence. They wanted me to go and see Judge Lawrence for them. Ratcliff had pulled a flag off an engine and Birt Clary had struck Ratcliff, and they wanted me to go and see Judge Lawrence. I told them that I could not go to Judge Lawrence about any such affair. I have not seen the Ratcliffs much during the last three years. About seven years ago Ratcliff was living at my hotel with the present Mrs. Ratcliff. Then he showed up with another woman. I asked Ratcliff, "Who was that woman sleeping in your room?" and he said, "That is my first wife." I said, "Aren't you afraid of your second wife?" He said, "I will ship this one out before long." He took her over to the café to eat, and the café woman told somebody about it, and Mrs. Ratcliff came and asked me about it. I told Mrs. Ratcliff I didn't know anything about it. Afterwards she found out that I was lying about it. Mrs. Ratcliff wanted to borrow two thousand dollars off me, and she told me about her boy being accused of having taken a package of diamonds at the postoffice. Ratcliff came to my [149] house asking about Fowler. Fowler is a jitney driver and operates an automobile up here in Auburn. I was in bed asleep and it was twenty minutes after midnight on the 27th, and Ratcliff said to me, "Do you know where Fowler is?" And I said, "I do not know, unless he is in his room." And he said, "What room?"

(Testimony of Mrs. Sarah Lewis.)

And I said, "Room 2." He walked to the room and I was going back to bed, and he rapped again and said, "He is not in his room." I said, "If he is not there I do not know where you can find him." Ratcliff said, "He promised to make a drive for a fellow and I want to find him." I said, "I have not any idea where you can find him." He said, "I will look around town." I was sleepy, I didn't know anything about his business, and I shut the door and went back to bed, and that is every word that was said between Ratcliff and I that night. I had not seen Fowler that day. I did not know he had an engagement to haul tires. I know Ayers. He has lived in my hotel about two and a half months. While there he was arrested for stealing automobiles. I knew he was a thief. He had that reputation in Auburn. He told me he was. I forced him to leave the hotel because it was terribly hard to get my room rent out of him. I did not tell Mrs. Ratcliff that if I had looked out of the window and had seen who her husband was with I would have told him he had better keep away from him. It was impossible to do that, as the room has no windows on the street. I know Mr. Lane by sight, although I have never spoken to him. I know Thomas Jones; he lived in my hotel until he was married. I do not remember Mr. Hanson at all. I have never spoken to him. I never knew Mrs. Hanson until this trouble came up. Mrs. Jones and I have been as friendly as two landladies in a town, that is all. I never visited with her. [150] She

(Testimony of Mrs. Sarah Lewis.)

runs another hotel. George White I only know to speak to. I shook hands with him on the street when he came back from the war. I know David Jones as an Auburn boy. I did not know Mellison until this trouble came up. Fowler is a guest in my hotel. They searched every room in my hotel. They took two brushes out of Glenn Crane's room and a couple of shirts out of different boys' rooms. They went through my room. They took six knives away from my house. I bought them in Seattle before Christmas up on Pike Street. There were 12 steak knives in a box. Payne took six knives and left six. This carving set was also in the box. (Defendant's Exhibit "H," the knives referred to, admitted in evidence.) I bought them on Pike Street about seven months ago. I know Scott. I never told him that I had any silverware gotten from the railroad.

Cross-examination.

I ceased running a restaurant six and a half years ago. The knives were in the original box in which they came. I have known Lemuel Fowler nine or ten years in Seattle and Auburn. He has been a roomer in my hotel ever since he has been in Auburn.

Q. You knew he was arrested and charged and convicted of stealing during that time?

Mr. DORE.—I object to that as incompetent, irrelevant and immaterial.

Mr. SANDERS.—I think, your Honor, we have a right to ask.

(Testimony of Mrs. Sarah Lewis.)

The COURT.—Objection overruled and exception allowed.

Q. Answer the question, please.

A. Yes, I did.

Redirect Examination.

I did not tell Mr. Payne the knives came out of a transient's room. [151] Mrs. Ratcliff told me that Ratcliff had stolen some good silk shirts, and that he had had a sale for the silk shirts, but at the time of the sale she kept out two very beautiful shirts, and she told me she would know them any place. She had put them down in the lower dresser drawer, and when Mr. Payne searched her place, he took those two nice shirts away, and a few days after that, I am almost sure it was in the postoffice building, and she was talking and joking with him, and he had on one of those silk shirts. She said, 'I looked at that shirt, and I says, 'Mr. Payne, when you soil that silk shirt of Mr. Ratcliff's I hope you will return it to him laundered,' He said, 'You had better shut your damned mouth; it is up to me who is indicted, and who is not indicted. If you don't look out, you will be indicted.' " She said, "I have to eat out of his hand." (Defendant's Exhibit "I," knives referred to, admitted in evidence.)

Testimony of Jack W. Brown, for the Defense.

My name is Jack W. Brown. I know S. L. Fowler. I saw Ayers in Auburn Saturday March 29th, 1920, between seven and eight in the evening on the main street. I was talking to Fowler. Ayers drove

(Testimony of Jack W. Brown.)

up in an automobile and said a few words to Fowler, and then jumped out, and talked to him and asked Fowler for a man by the name of Scott. Fowler said to Ayers that Scott was not around any place. So Ayers said, "You will do then." So Ayers jumped out of his car and asked Fowler if Fowler wanted to drive to Renton, I think it was—yes, it was Renton. Ayers said he wanted Fowler to drive to Renton for some automobile accessories. This was about seven o'clock Saturday night. Fowler said his car was not big enough, and [152] asked Ayers how much stuff he had. Ayers said that Fowler's car would do, that it was too late to get a truck. And I left and went on downtown.

Cross-examination.

I am in the cigar business at 1518 Pacific Avenue, Tacoma. I have done longshoring work also. I worked for the Northwest Steel Company in Portland. The first time I met Fowler was in the Northwest Steel yards at Portland, Oregon, a year ago in January. He was volter-up in the shipyards. I did not see him again until March 27th in Auburn. Mr. Shepard was with me. Shepard and I were fishing. Fowler introduced Ayers to me. I did not see Ratcliff or Scott that night. I do not know who Ratcliff is nor Scott either.

Testimony of M. W. Lawrence, for the Defense.

My name is M. W. Lawrence. I was justice of the peace in Auburn. During the war a complaint was made to me that J. A. Ratcliff, a railroad conductor,

(Testimony of M. W. Lawrence.)

was engaged in pro-German activities. Reports were made to me as head of the Minute Men. Their report was that Ratcliff had torn a flag off a flag-draped locomotive at Everett. I wrote to Mr. Ratcliff and I requested him in that letter to call upon me.

Testimony of Reginald C. Rice, for the Defense.

My name is Reginald C. Rice. I live in Auburn and I drive a stage between Seattle and Auburn. During the month of March in Auburn the witness Ayers offered to sell me some tires. He said he had any kind or any size tire. I told him I did not handle that kind of stuff. I presumed the tires had been stolen and I refused to buy them upon that presumption.

Cross-examination.

I was a conductor on the Northern Pacific for eight years [153] and have been brakeman for eleven years. I left the employ of the road on March 8, 1920. I know all the defendants in this case.

Redirect Examination.

Ayers offered to sell his automobile tires to a man by the name of *Doozon* and a man named W. R. Ferguson, another stage-driver.

Testimony of George E. White, One of the Defendants.

My name is George E. White. I have been railroad brakeman ever since 1907. I went into the United States Army in October, 1917. I went from

(Testimony of George E. White.)

Fort Lawton to Camp Grant, where I got a uniform. I put my civilian clothes in a suitcase and expressed them to E. White, my brother, at Suamico. I got back to the United States in June, 1919. I visited my brother and got my suitcase on the way home and brought it to Auburn to the Lloyd Hotel. I put the uniform back in the suitcase. I roomed with George Bourdell. At the time of my arrest I was living in the Park Hotel. Dobey and Winquist searched my room and found nothing in it. I threw the suitcase in the closet in the Lloyd Hotel. There was no razor strops in it when I put the suitcase in the closet. I never had any stolen property of any kind. I put the suitcase in the closet in September, 1919. That is my suitcase. I know Fowler since August, 1912. I do not know Mellison. I know Tom Jones as a railroad conductor. I never knew Mr. and Mrs. Hanson until this trouble came up. I knew Mrs. Lewis as the woman who ran the St. Elmo Hotel, and I used to speak to her wherever I met her and say how do you do. I know Mrs. Jones. I know Creed Lane as a brakeman, though I never worked with him. [154]

Cross-examination.

Immediately after my discharge from the Army I went to the Lloyd Hotel and commenced rooming in room 31 with Bourdell. I stayed in the Lloyd Hotel until the first of March. I never saw any of the razor strops marked as Government's Exhibit 21. Bourdell and I each had a trunk in the room, and we used the bureau in common. On January 21st I was on a train running from Ellensburg to Auburn. The

(Testimony of Lemuel S. Fowler.)

train crew was Bundy, Brown and myself and Envelson. Government's Exhibit "A" are not my shoes. I never had any reason to suspect Bourdell of larceny, and I never worked with Creed Lane. I worked three days with Bourdell on a gravel train.

Testimony of Lemuel S. Fowler, One of the Defendants.

My name is Lemuel S. Fowler. I have lived in Auburn since 1913. I have been in Auburn and Seattle for sixteen years. I have been in the employ of the Northern Pacific from September 1, 1910, until the latter part of 1917 as a brakeman. I have not been in their employ since 1917. I roomed at the St. Elmo Hotel conducted by Mrs. Lewis. I have roomed there since I came to Auburn. I know Mr. Lane. I worked with Thomas E. Jones. I never worked with Hanson, though I worked with Bellamy. I know Hanson to speak to him. I know Mrs. Jones and David Jones, and I know Mellison. My business is running automobiles for hire in Auburn. I am a licensed operator of automobiles for hire, and was in March, 1920. I met Ayers in Auburn on March 27th on the corner of First and Silver Street about eight o'clock at night. Ayers drove up in a car and asked me if I had seen conductor Scott, and I said that I had not. He said, "Well, I am looking for him. He was to do some work for me,—make a haul for me to night, and I don't seem to be able to find him." "Well," he says, "what are you doing?" I said, [155] "Doing nothing but standing here

(Testimony of Lemuel S. Fowler.)

talking now." He said, "Can I get you to make a drive for me to Renton?" And I said, "I guess you can. There is no reason why you cannot." He said, "I will see if I cannot find Scott, and if I cannot I will come back and get you." I said, "I will be here for a while," and I asked him what he wanted me to do. He said, "I have got some accessories I want hauled to Renton." I said, "What have you got?" He said, "Automobile tires." I says, "I haven't any automobile truck. I can't haul a load of tires. I have this little Paige Cloverleaf, and I can't get much in it." I was to be paid for hauling it. The regular price for a trip from Auburn to Renton is four dollars. I make the run frequently. I was talking to a fellow named Brown and a fellow named Allerdice, standing there on the corner. An hour later I saw Ayers and he told me he could not find Scott and wanted me to haul the tires for him, and I hauled the tires for him. I went with him about eight or nine o'clock up on Cemetery Hill. I was alone in my car and Ayers was alone in his car. Mellison was not there. We went up to the top of a hill to a house up there and we got the tires out of the house upstairs in a little loft in there. Ayers took me to the place. I did not know the tires were there before Ayers took me there. He stopped the machine in front of the place and lugged the tires out and I loaded them in the car. I knew nothing of the tires prior to the time Ayers said he wanted me to haul the tires to a garage at Renton. I have known Scott seven or eight years. Early in the evening between seven and

(Testimony of Lemuel S. Fowler.)

eight o'clock that night I had met Mr. Mellison. He was looking for some place to get some whiskey, and he asked me about it. His family had been sick. I had hauled him to the Northern Pacific Hospital [156] at Tacoma previous to this. Dr. Brandt, the company doctor, engaged me to haul him. I told him I did not know where there was any whiskey around there. After Ayers and I had loaded the tires I saw Mellison again on the street and I told him I was going to Renton, and Mr. Ayers had told me maybe he could get some whiskey. I had had a drink of whiskey with him out of a bottle he had in his car up on top of the hill. Ayers had told me he could get plenty of it in Renton. I offered to take Mellison to Renton with me, and I told him that Ayers would get the whiskey. He went and got his overcoat and came back and waited for me an hour or two in Auburn, and for Ayers to show up. Mellison had absolutely nothing to do with the tires. He was a passenger in the car; that is all. Mellison was going to Renton for whiskey. I waited on the highway 45 minutes or an hour for Ayers, and then I drove into Auburn looking for him. The automobile tires were in the car all the time from nine o'clock to twelve. I followed Ayers to Renton. Mr. Ayers and Mr. Ratcliff drove into the garage and unloaded some stuff out of their car, and backed out. As he backed out I drove in and unloaded the tires, and was arrested. I had a revolver in my pocket and also \$278. I generally carry a revolver when driving an automobile at night. A lot of jitney-bus men

(Testimony of Lemuel S. Fowler.)

have been knocked over all of the time, and some of them have been killed. Mr. Loveall took it out of my pocket. There was some shooting at the garage. I think the deputies did it. Deputy Sheriff Hughes and I unloaded the tires. I never offered to sell the tires to anybody. Nobody ever offered to sell them to me. I was questioned in the County Jail by Deputy Sheriffs Campbell and Loveall. When I was brought to the County Jail Deputy Sheriffs Campbell, Loveall and Hughes went out and said they were going to get this other fellow. They said they knew [157] who he was and they were going to get him. They returned in about three-quarters of an hour and said they had not found the man. Loveall told me he would kill me unless I told him who the man was that got away, and he started to beat me up. I have a mark on me at the present time. Campbell, Loveall and Hughes were present while he was beating me. Campbell said that the man took two shots at him and that the powder burnt his coat. Campbell said he would wear the handcuffs out over my head unless I would tell him who the man was. I did not see Ratcliff on March 26th until we landed in Renton.

Cross-examination.

I am thirty-nine years old.

Q. What has been your occupation?

A. I have been railroading for the last number of years.

Q. How long?

(Testimony of Lemuel S. Fowler.)

A. Why I was in the employ of the Northern Pacific from 1910 to 1917.

Q. You left the employ in 1917? A. Yes.

Q. Under conviction of theft from cars?

Mr. DORE.—I object to that as incompetent, irrelevant and immaterial.

The COURT.—You said “conviction”?

Mr. SAUNDERS.—Conviction.

The COURT.—Objection overruled.

Mr. DORE.—The only question open would be conviction of theft, I take it.

The COURT.—There is moral turpitude in conviction for larceny, whether it is grand or petit. But I instruct the jury that it only bears if the witness admits that he was convicted—it only bears on his credibility as a witness. [158]

Mr. SAUNDERS.—That is all it is offered for.

The COURT.—You are not to convict him in this case, because he may have committed some other offense. That is not right, and you are not allowed to do that. But a man who has been convicted of crime, you may take that into question in determining whether he is the sort of a man that would probably tell you the truth,—what he testifies as a witness. Objection overruled.

Q. You left the employ of the Northern Pacific as a brakeman when you were convicted of theft from box-cars?

A. Yes, I pleaded guilty to petit larceny.

Q. From box-cars? A. No, sir.

Q. From the railroad? A. No, sir.

(Testimony of Lemuel S. Fowler.)

Q. What from then?

A. For having the goods in my possession.

Q. They came from box-cars,—stolen goods? They came from box-cars. I am asking you, you plead guilty to having stolen goods in your possession? A. Yes, sir.

Q. That had been stolen from box-cars.

A. Yes, sir.

Q. You have not been in the railroad employ since then?

A. No, sir. I have lived at the St. Elmo Hotel. I left Auburn in July of last year. I worked in the Northwest Steel Company in Portland. I was also working in a garage in Sacramento, California. I was absent from Auburn a year and then returned. I know Lane, Bellamy and White and both of the Jones. I never roomed [159] at the Lloyd Hotel. I worked with Ratcliff and Creed Lane. I never worked with Hanson. I only worked with them while I was in the railroad employ. I never received any signal from Ayers that night.

Recross-examination.

I had no personal acquaintance with Ayers. I knew he was a man that had been in business in a garage in Auburn. I did not know he was a thief. As far as I knew, he was all right.

Testimony of James Mellison, One of the Defendants.

My name is James Mellison. I live in Auburn; am married and have five children. I was in the

(Testimony of James Mellison.)

Northern Pacific Hospital, in Tacoma. I went to the hospital on March 16th and left on March 27th. When I got home two of the children had the flu and the other three had the measles. In the hospital I had pneumonia and flu. I was attempting to get whiskey that night. The doctor in the hospital told me it would be good for me to have whiskey. I met Fowler that night on the main street of Auburn. He told me he could not tell me just then where I could find any whiskey. I met him again between 10 and 11 and he then said he knew where I could get some whiskey. He said a man had given him a drink, and he had a trip to make to Renton and if I would come down there I could get some good whiskey. I did not go up the hill with him and Fowler and I did not see the tires loaded in the car. The first time I saw the tires was when the automobile was standing by the curb. I never knew Ayers until I got to Renton. They never searched my house for stolen property. I work at switching and also at plumbing. I worked for Mr. Price, a plumber at Auburn. I never knew Mrs. Lewis before this trouble. I only saw Mrs. Jones here in court. I never saw Mr. Lane until in court. I do not know Tom Jones, Bellamy or any of the other defendants.

I knew Fowler around [160] Auburn. He drove me over to the Northern Pacific Hospital at Tacoma. He was hired by Dr. Brandt, the Northern Pacific doctor at Auburn. The following morning after I was arrested Mr. Winquist and Mr. Payne came to the jail with a stenographer and asked me if I could

(Testimony of James Mellison.)

tell them who was the man who escaped from the officers at Renton. I told them, "No, I could not. I never saw him before, and I am not sure if I would know him if I saw him again." Stewart Campbell came and asked me if I would talk to Mr. Payne. And he said if I would tell them what they wanted to know they would get me out of trouble. Payne wanted to know where Ayers was.

Cross-examination.

I told the story about the whiskey immediately after my arrest. I told it to Campbell, Loveall, Hughes and Taylor. My wife and a neighbor woman and the doctor was taking care of my family that night I heard Deputy Sheriff Hughes ask Fowler if there was any tubes, and Fowler said no. Ayers and Fowler had a dispute about paying for the hauling, outside of the garage. Fowler wanted Ayers to pay him for the trip and wanted to leave the stuff outside. I was walking around on the ground. I had forty dollars on me that night.

Testimony of Dr. Frank Brooks, for the Defense.

My name is Frank Brooks; I live in Auburn. I am a regularly licensed physician and surgeon, and my principal office is in Seattle. In the latter part of June I was in attendance upon the Mellison family. Mellison's daughter Mary had typhoid pneumonia, and the little boy had influenza.

Testimony of Mrs. Louise Mellison, for the Defense.

My name is Mrs. James Mellison. I am the wife of James Mellison, the defendant. I have five children. The eldest is [161] twelve years old and the youngest is three and a half. The family was sick the latter part of last March. The oldest girl was very sick and had typhoid pneumonia. My husband left home on March 27, 1920, to see if he could get some whiskey. The girl was practically dying. He came back about eight-thirty and had no whiskey with him. He went out about eleven and said he was going to Renton for whiskey. I was the one that wanted him to get the whiskey. The next I heard of him he was in jail. My husband works as a switchman and as a plumber.

Testimony of C. E. Allerdice, for the Defense.

I live in Auburn, Washington. I am a switchman. On the streets of Auburn on March 27th I heard Ayers and Fowler talking. I was talking to Fowler when Ayers drove up in the automobile. Ayers called to Fowler and asked him if he had seen Scott. Fowler said, "No." Ayers then asked Fowler if he had a car, and he told Fowler he had a trip he wanted him to make. He was figuring on Scott making the trip, and he wanted to know if Fowler could make it. He said he would. He got out and they were talking, and I told him as long as he was going to get busy, I would go on. Ayers said the trip was to Renton Junction. Brown was there at the time.

(Testimony of C. E. Allerdice.)

Cross-examination.

I have known Fowler about two and a half years. I knew him as a jitney driver. I know Tom Jones, David Jones. I do not know Sarah Jones. I know Mrs. J. R. Lewis. I know J. R. Mellison. I am not acquainted with White. I know Clarence H. Bellamy. I know Hanson and I have met his wife. I know Creed Lane and Thomas E. Jones.
[162]

Testimony of J. E. Price, for the Defense.

My name is J. E. Price. I am in the plumbing business in Auburn. I know Mellison. He has been in my employ as a plumber from the latter part of May until along about the 18th of October, 1919. He was working at switching also at the time. His reputation in Auburn for honesty and good citizenship is good.

Testimony of A. C. Hubbard, for the Defense.

My business is jitney driver. I live in Auburn. I know Ayers. Ayers asked me at one time if I knew of anybody that wanted any tires.

Mr. GRAVES.—If your Honor please, the defendant Bellamy rests upon the evidence already received.

Defendant's Exhibit "J," a letter offered in evidence and read: "Auburn, February 9th. Mr. J. H. Robinson, Trainmaster. Someone went through the caboose in Auburn yards February 5th and stole my clothes including my pass and switch key. Will

you please send a new one? Yours truly, Creed Lane, Brakeman."

Marked "Received, February 10th," with the stamp of the trainmaster.

Mr. TUCKER.—May it please your honor, on behalf of the defendant, Thomas Singer, at this time, I move the Court to direct the jury to return a verdict of not guilty in favor of the defendant as to Count 1. I move the Court to direct the jury to return a verdict of not guilty on Count 2, and I move the Court to direct the jury to return a verdict of not guilty on Count 3, because of entire lack of any evidence. The defendant has made an explanation as to how he came into possession of the overcoat. The most unfavorable construction that [163] could be placed upon this evidence against the defendant Singer is that he was in possession of property that at one time was stolen.

Motion denied and exception allowed.

Motion on behalf of defendant Clarence H. Belamy for directed verdict. Motion overruled and exception allowed.

Motion for directed verdict on behalf of defendant Sarah Jones. Motion denied.

Motion for directed verdict on behalf of Ethyl Hanson, and motion for directed verdict on behalf of defendant W. H. Hanson. Motion on behalf of David Jones. All of these motions were denied and exceptions allowed.

Motion for directed verdict on behalf of defendants L. S. Fowler, James Mellison and Mrs. Sarah

Jones on Count 1, Count 2 and Count 3 of the indictment, on the ground that there was lack of evidence as to each of them, and that there was not sufficient evidence to sustain any one count of the indictment.

The motions as to each of the defendants were overruled and exceptions allowed.

JOHN F. DORE,

Attorney for Thomas Singer and Lemuel S. Fowler.

[164]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, THOMAS SINGER et al.,
Defendants.

Order Settling Bill of Exceptions.

Defendants Lemuel S. Fowler and Thomas Singer, having tendered and presented the foregoing as their bill of exceptions in this cause to the action of the court, and in furtherance of justice and that right may be done, and having prayed that the same may be settled and allowed, authenticated, signed and sealed by the Court and made a part of the record herein; and the Court having considered said bill of exceptions and all objections and proposed amendments made thereto by the Govern-

ment, and being now fully advised, does now in furtherance of justice, and that right may be done the defendants, sign, seal, settle and allow said bill of exceptions as the bill of exceptions in this cause, and it is ORDERED that the same be made a part of the record herein.

And the Court further certifies that each and all of the exceptions taken by the defendant, as shown in said bill of exceptions, were at the time the same were taken allowed by the Court.

And the Court further certifies that said bill of exceptions contains all the evidence in said cause, and also everything material to each and every assignment of error made by the defendants and tendered and filed in this cause with said bill of exceptions.

And the Court further certifies that said bill of exceptions was filed and presented to the Court within the time provided by law, as extended by [165] the order heretofore made herein.

Done and ordered in open court, counsel for the Government and defendants being present, this 18th day of Oct., 1920.

EDWARD E. CUSHMAN,
Judge.

[Indorsed]: Bill of Exceptions. Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 18, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [166]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, THOMAS SINGER et al.,
Defendants.

Praeceptum for Transcript of Record.

To the Clerk of the Above-entitled Court:

You will please make a transcript of record on
appeal to the Circuit Court of Appeals for the
Ninth Circuit, in the above-entitled cause, and in-
clude therein the following:

Indictment.

Arraignment.

Demurrer.

Order overruling demurrer.

Plea.

Record of trial and impanelling jury.

Motion for directed verdict.

All of motions.

Order granting some and overruling others.

Motion for directed verdict at end of Government's
case.

Order overruling same.

Verdict.

Motion for new trial—Singer.

Motion for new trial—Fowler.

Hearing on motion for new trial—Singer and Fowler.

Judgment and sentence—Fowler and Singer.

Petition for writ of error—Singer and Fowler.

Assignment of error—Singer and Fowler.

Order allowing writ of error—Singer and Fowler.

Supersedeas—Fowler and Singer.

All orders extending time for filing bill of exceptions.

All orders extending time for filing records.

Bill of exceptions.

Order settling bill of exceptions.

Writ of error.

Citation.

Defendant's praecipe.

JOHN F. DORE,

Attorney for Defendants Lemuel S. Fowler and
Thomas Singer. [167]

We waive the provisions of the Act approved February 13, 1911, and direct that you forward typewritten transcript to the Circuit Court of Appeals for printing as provided under Rule 105 of this Court.

JOHN F. DORE,

Attorney for Plaintiff in Error.

[Indorsed]: Praecipe for Transcript of Record. Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 28, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [168]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER and THOMAS SINGER,
Defendants.

**Certificate of Clerk U. S. District Court to Transcript
of Record.**

United States of America,
Western District of Washington,—ss.

I, F. M. Harshberger, Clerk of the United States District Court, for the Western District of Washington, do hereby certify this typewritten transcript of record numbered from 1 to 168, inclusive, to be a full, true, correct and complete copy of so much of the record, papers, and other proceedings in the above and foregoing entitled cause as is required by praecipe of counsel filed and shown herein, as the same remain of record and on file in the office of the clerk of said District Court, and that the same constitute the record on return to said writs of error herein from the judgments of said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees

and charges incurred and paid in my office by or on behalf of the plaintiffs in error for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit: [169]

Clerk's fee (Sec. 828, R. S. U. S.) for making record, certificate or return, 282

folios at 15¢.....\$63.45

Certificate of clerk to transcript of record—

4 folios at 15¢..... .60

Seal to said certificate..... .20

I hereby certify that the above cost for preparing and certifying record, amounting to \$64.25, has been paid to me by attorney for plaintiffs in error.

I further certify that I hereto attach and herewith transmit the original writs of error and original citations issued in this cause.

IN WITNESS WHEREOF I have hereto set my hand and affixed the seal of said District Court at Seattle, in said District, this 9th day of November, 1920.

[Seal]

F. M. HARSHBERGER,
Clerk U. S. District Court. [170]

In the United States Circuit Court of Appeals for
the Ninth Circuit.

LEMUEL S. FOWLER,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

Writ of Error (Lemuel S. Fowler).

The United States of America,—ss.

The President of the United States of America, to
the Honorable Judges of the District Court of
the United States for the Western District of
Washington, Northern Division, GREETING:

Because in the record and proceedings, as also in
the rendition of the judgment, of a plea which is in
said District Court before the Honorable Edward
E. Cushman, one of you, between Lemuel S. Fowler,
the plaintiff in error, and the United States of
America, the defendant in error, a manifest error
hath happened to the prejudice and great damage
of said plaintiff in error, as by his complaint and
petition herein appears, and we being willing that
error, if any hath been, should be duly corrected
and full and speedy justice done to the party afore-
said in this behalf, do command you, if judgment
be therein given, that then, under your seal, dis-
tinctly and openly, you send the record and pro-
ceedings with all things concerning the same, to the
United States Circuit Court of Appeals for the
Ninth Circuit, at the city of San Francisco, State
of California, together with this writ, so that you
have the same at said city of San Francisco within
thirty days from the date hereof, in the said Cir-
cuit Court of Appeals to be then and there held,
that the record and proceedings aforesaid being
then and there inspected, said Court of Appeals
may cause further to be done therein to correct that
error, what of right and according to the laws and

customs [171] of the United States of America should be done in the premises.

WITNESS the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the United States, this 21st day of June, 1920, and the year of the Independence of the United States one hundred and forty-third.

[Seal] F. M. HARSHBERGER,
Clerk of the District Court of the United States for
the Western District of Washington. [172]

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jun. 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

In the United States Circuit Court of Appeals for
the Ninth Circuit.

THOMAS SINGER,

Plaintiff in Error,

VS.

THE UNITED STATES OF AMERICA.

Defendant in Error.

Writ of Error (Thomas Singer).

The United States of America,—ss.

The President of the United States of America, to
the Honorable Judges of the District Court of
the United States for the Western District of
Washington, Northern Division, GREETING:
Because in the record and proceedings, as also in

the rendition of the judgment, of a plea which is in said District Court before the Honorable Edward E. Cushman, one of you, Thomas Singer, the plaintiff in error, and the United States of America, the defendant in error, a manifest error hath happened to the prejudice and great damage of said plaintiff in error, as by his complaint and petition herein appears, and we being willing that error, if it hath been, should be duly corrected and full and speedy justice done to the party aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings with all things concerning the same to the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, State of California, together with this writ, so that you have the same at said city of San Francisco within thirty days from date hereof, in said Circuit Court of Appeals to be then and there held, that the record and proceedings aforesaid being then and there inspected, said Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States of America [173] should be done in the premises.

WITNESS the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the United States, this 21st day of June, 1920, and the year of the Independence of the United States one hundred and forty-third.

[Seal] F. M. HARSHBERGER,
Clerk of the District Court of the United States for
the Western District of Washington.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jun. 21, 1920. F. M. Harshberber, Clerk. By S. E. Leitch, Deputy. [174]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPA-
NIER and MRS. J. A. LEWIS,

Defendants.

Citation on Writ of Error (Lemuel S. Fowler).

United States of America,—ss.

The President of the United States of America, to
the United States of America, and to Robert
C. Saunders, United States Attorney for the
Western District of Washington, Northern
Division, GREETING:

You are hereby cited and admonished to be and

appear before the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Western District of Washington, Northern Division, wherein said Lemuel S. Fowler is plaintiff in error and the United States of America is defendant in error, to show cause, if any there be, why judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the party in that behalf.

WITNESS, the Honorable EDWARD E. CUSHMAN, Judge of the District Court of the United States for the Western District of Washington, Northern Division, this 21st day of June, 1920.

EDWARD E. CUSHMAN,
United States District Judge.

[Seal] Attest: F. M. HARSHBERGER,
Clerk of the District Court of the United States for
the Western District of Washington.

Acceptance of service of within Citation acknowledged this 21st day of June, 1920.

ROBT. C. SAUNDERS,
Attorney for Plaintiff.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jun. 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [175]

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE F. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
EDWARD BOURDELL, SARAH JONES,
JOE VEAGUS, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPA-
NIER and MRS. J. A. LEWIS,
Defendants.

Citation on Writ of Error (Thomas Singer.)

United States of America,—ss.

The President of the United States of America, to
the United States of America, and to Robert
C. Saunders, United States Attorney for the
Western District of Washington, Northern
Division, GREETING:

You are hereby cited and admonished to be and
appear before the United States Circuit Court of
Appeals for the Ninth Circuit, at San Francisco,
in the State of California, within thirty days from
the date hereof, pursuant to a writ of error filed

in the clerk's office of the District Court of the United States for the Western District of Washington, Northern Division, wherein said Thomas Singer is plaintiff in error and the United States of America is defendant in error, to show cause, if any there be, why judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the party in that behalf.

WITNESS, the Honorable EDWARD E. CUSHMAN, Judge of the District Court of the United States for the Western District of Washington, Northern Division, this 21st day of June, 1920.

EDWARD E. CUSHMAN,
United States District Judge.

[Seal] Attest: F. M. HARSHBERGER,
Clerk of the District Court of the United States for
the Western District of Washington.

Acceptance of service of within Citation acknowledged this 21st day of June, 1920.

ROBT. C. SAUNDERS,
Attorney for Plaintiff.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jun. 21, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [176]

[Endorsed]: No. 3597. United States Circuit Court of Appeals for the Ninth Circuit. Lemuel S. Fowler and Thomas Singer, Plaintiffs in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writs of Error to the United States District Court of the Western District of Washington, Northern Division.

Filed November 12, 1920.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL S. FOWLER et al.,
Defendants.

**Order Extending Time to and Including November
20, 1920, for Filing Record.**

For good cause now shown to this Court, it is hereby ORDERED that the time for filing the record in the Circuit Court of Appeals in the above-entitled cause be and the same hereby is extended to November 20th, 1920.

Done in open court, this 18th day of October,
1920.

EDWARD E. CUSHMAN,
United States District Judge.

O. K.—ROBT. C. SAUNDERS,
U. S. Dist. Atty.

[Endorsed]: Filed in the United States District
Court, Western District of Washington, Northern
Division. Oct. 18, 1920. F. M. Harshberger, Clerk.
By S. E. Leitch, Deputy.

United States District Court, Western District of
Washington, Northern Division.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
JOE VEAGUS, EDWARD BOURDELL,
SARAH JONES, HERBERT WILLIAM
HANSON, ETHYL HANSON, WILLIAM
RATCLIFF, JAMES FRANCIS MELLI-
SON, THOMAS SINGER, DAVID JONES,
CREED LANE, GEORGE H. TREPA-
NIER and MRS. J. A. LEWIS,
Defendants.

**Order Extending Time to and Including October 20,
1920, for Filing Record.**

FOR GOOD CAUSE SHOWN it is ORDERED, that the time for filing the record in the above-entitled cause in the office of the clerk of the Circuit Court of Appeals be and the same hereby is extended to October 20th, 1920.

Done in open court, this 20th day of September, 1920.

JEREMIAH NETERER,
United States District Judge.

O. K.—F. R. CONWAY,
Asst. U. S. Atty.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 20, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

In the United States Circuit Court of Appeals for
the Ninth Circuit.

No. 5249.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEMUEL S. FOWLER, GEORGE E. WHITE,
CLARENCE H. BELLAMY, ALBERT
BRUCE PARIS, THOMAS E. JONES,
EDWARD BOURDELL, SARAH JONES,

JOE VEACUS, HERBERT WILLIAM HANSON, ETHYL HANSON, WILLIAM RATCLIFF, JAMES FRANCIS MELLISON, THOMAS SINGER, DAVID JONES, CREED LANE, GEORGE H. TREPANIER and MRS. J. A. LEWIS,

Defendants.

Order Extending Time Sixty Days from July 20, 1920, for Filing Record.

FOR GOOD CAUSE NOW SHOWN, it is hereby ORDERED that the time for filing the record in the above cause in the office of the clerk of the United States Circuit Court for the Ninth Circuit be and the same hereby is extended for sixty (60) days from the 20th day of July, 1920.

Done in open court, this 19th day of July, 1920.

FRANK H. RUDKIN,
United States District Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jul. 19, 1920. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

No. 3597. United States Circuit Court of Appeals for the Ninth Circuit. Three Orders Under Subdivision 1 of Rule 16 Enlarging Time to and Including November 20, 1920, to File Record and Docket Cause. Filed Nov. 12, 1920. F. D. Monckton, Clerk. By Paul P. O'Brien, Deputy Clerk.

